

## COUNCIL MEETING

OCTOBER 8, 2014

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Jay Furfaro at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, October 8, 2014 at 10:15 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum  
Honorable Mason K. Chock, Sr.  
Honorable Gary L. Hooser  
Honorable Ross Kagawa (*excused at 2:00 p.m.*)  
Honorable Mel Rapozo  
Honorable JoAnn A. Yukimura  
Honorable Jay Furfaro

Council Chair Furfaro: I am sorry that we do not have video at this present time, although we do have audio. I would also like to point out, as I have in the past and is directed at Hō'ike, in the future, I would like that we have a ten (10) minute check at our facilities before we start. I would also like to say again that I will allow up to one (1) hour of opportunity that we can look at a backup system, so that we have redundancy; even if that hour requires us to bring cameras from Hō'ike, I want us to have a backup plan. This is the second request. We just have a black screen with captioning.

### APPROVAL OF AGENDA.

Councilmember Bynum moved for approval of the agenda as circulated, seconded by Councilmember Chock.

Council Chair Furfaro: I have a couple of housekeeping notes on this agenda. I had a request from the County Attorney to go first because he has time in Court today. Also for myself, I will be leaving about 12:00 p.m. to attend the Board of Director's meeting at Pono Kai as it relates to a Capital Improvement Projects (CIP) plan for the retaining wall. Also, both Councilmember Yukimura and Councilmember Chock have indicated that they need to leave at 5:30 p.m. today. I will be back around 2:00 p.m. to the best of my ability.

The motion for approval of the agenda as circulated was then put, and unanimously carried.

Council Chair Furfaro: Let us go to the public comment period.

### PUBLIC COMMENT.

Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e).

Council Chair Furfaro: Thank you. Based on today's agenda, is there anyone in the audience who signed up?

RICKY WATANABE, County Clerk: We have two (2) people who have signed up for the public comment period. The first speaker is Gary Pierce, followed by Glenn Mickens.

Council Chair Furfaro: Very good. Thank you.

There being no objections, the rules were suspended.

GARY PIERCE: My name is Gary Pierce. I would like to testify on Resolution No. 2014-45. I am opposed to any further separation of Real Property Tax (RPT) classes. Overall, reform must occur, not just tweaking. I see nothing but problems on the property adjacent to Walmart. It was zoned for the superstore, but the County Council refused to approve after the infrastructure was installed. It is interesting that the land on the Puhi side is being developed and not the Walmart side. You are talking about foundation zoning—that Walmart side is very well adapted for walking and bike paths. Now it is gone back to agriculture and County wants “retro moneys.” What will this Bill do to small farmers who are dedicated to agriculture? Stockpiling sounds like composting to me, or should the material be shipped to Kekaha? There are too many unforeseen consequences. Please take your time. I would rather see cuts in spending before another bad tax bill that will just cost the County money. Also, Bill No. 2554: I am for the limit to increase—excuse me—I am for the limit to keep property taxes at the maximum of two hundred fifty dollars (\$250). For the record, I am for Bill No. 2556, the Permanent Home Use (PHU) credit for homestead and residential. Overall, the Council has stated that the Real Property Tax rate increase was not fair. What I am saying is, are you the fairness police? Is it fair to leave our children burdened with hundreds of millions of dollars in debt? This is a tactic only to raise taxes. Again, the laws when given the subjective nature of classes, combined with the non-vetted individuals with mandated inspections will cause nothing but problems, lawsuit, and corruption, and more full-time employees, not to mention separate classes, having different political motivations—again, “class warfare.” Another aspect is “use.” I do not want government in my bedroom. At every step, the Council, along with the Finance Director, a bureaucrat, has taken away my privacy rights, and my civil and economic liberties. I am going to read that to you again. I think it is important. “The Council, along with the Finance Director, a bureaucrat, has taken away my privacy rights and my civil and economic liberties.” I would also like to testify on Communication 2014-216. This is the Transient Accommodations Tax (TAT). Mr. Furfaro, I applaud you for trying to get our money back, but at the same time, not only did the State take our money, but it also increased the TAT tax from seven percent (7%) to nine percent (9%). But the State cannot pay the County? They got a double raise. They got a raise not only from the increase in the TAT tax, but taking it away from the states. This Bill needs to be going through to try to balance our budget. Thank you for letting me testify today.

Council Chair Furfaro: Thank you very much.

Mr. Watanabe: Our next speaker is Glenn Mickens.

GLENN MICKENS: For the record, Glenn Mickins. Thank you, Jay. B.C., I hope you get that thing going. You have a copy of my testimony. Obviously, this is my opinion. I think I have my opinion, the same as you have yours. I find it inexcusable that only two (2) members on this body are willing to

keep the Permanent Home Use cap operational as it has been for nine (9) years. Neutral, very intelligent people like Walter Lewis and Carl Imparato have more than made the case that the cap does work for the majority of the people and should be reinstated. For the taxpayers who are in the homestead class, this cap is giving them security to know that they will never be taxed out of their homes, which you have heard all kinds of people talk about. Some Members of this Council have made the argument that the cap was inequitable since certain citizens have the same size houses in the same area that paid higher taxes. This theory is a "red herring" since anyone who buys anything at a different point in time than the other purchaser knows that the later buyer will usually pay more. This is just "Economics 101" and thus property value and tax will probably go higher according to the purchase date. For JoAnn to make the statement that the two hundred fifty dollar (\$250) cap that is proposed under Bill No. 2554 is not a cap is ludicrous. She stated that it is temporary, but whether it is temporary or permanent, as Mel said, it certainly is still a cap. "If it looks like a duck, walks like a duck, and talks like a duck, then it is a duck." Under the cap that was in place, the system was working fine, and it was not until it was removed that the taxpayers were complaining. Why should we be giving our government another one million three hundred thousand dollars (\$1,300,000) to squander and hurt those who need the cap the most? Please reinstate the cap and make it permanent. Thank you.

Council Chair Furfaro: Excuse me, Glenn. There is a flaw in your testimony that I would like you to correct.

Mr. Mickens: Okay.

Council Chair Furfaro: The fact of the matter is that you said only "two (2) members of the Council," but I have not voted yet. I am a member of the Council. Thank you. Please correct that.

Mr. Mickens: Okay.

Council Chair Furfaro: It was voted in Committee. Any more speakers?

Mr. Watanabe: There are none.

Council Chair Furfaro: Okay. At the request of the County Attorney, we have our First Deputy County Attorney who needs to be in Court, so he would like us to move his item up. There is a communication on the consent calendar and there is a Proposed Draft Bill. How should we handle that?

There being no one else to provide public comment, the meeting was called back to order, and proceeded as follows:

Mr. Watanabe: Can we take up the minutes and the two items on the consent calendar first, Chair?

Council Chair Furfaro: Sounds like a good plan. I just wanted to point out that one of the items on the consent calendar is his item.

Mr. Watanabe: It is related to the Bill.

Council Chair Furfaro: That is correct.

MINUTES of the following meeting of the Council:

September 24, 2014 Public Hearing re: Bill No. 2551, Bill No. 2552, Bill No. 2554, Bill No. 2555, Bill No. 2556, Bill No. 2557, Bill No. 2558, and Bill No. 2559

Councilmember Yukimura moved to approve the Minutes as circulated, seconded by Councilmember Rapozo, and unanimously carried.

Council Chair Furfaro: Let us go to the consent calendar.

CONSENT CALENDAR:

C 2014-259 Communication (09/25/2014) from the County Attorney, transmitting for Council consideration, proposed amendments to Ordinance No. B-2014-781, as amended, relating to the Operating Budget of the County of Kaua'i, for the Fiscal Year 2014-2015, by revising the amounts estimated in the General Fund. (*Office of the County Attorney, Special Counsel Account - \$67,933*): Councilmember Kagawa moved to receive C 2014-259 for the record, seconded by Councilmember Rapozo, and unanimously carried.

C 2014-260 Communication (09/26/2014) from Councilmember Bynum and Councilmember Hooser, transmitting for Council consideration, a Resolution Establishing A Council Investigative Committee To Investigate The Implementation And Management Of Section 5A-9.1 And Section 22-7.1 Through 22-7.27, Kaua'i County Code 1987, As Amended, Relating To The Dedication Of Land For Agricultural Use, And Grading, Grubbing And Stockpiling, Within The County Of Kaua'i: Councilmember Kagawa moved to receive C 2014-260 for the record, seconded by Councilmember Rapozo, and unanimously carried.

Mr. Watanabe: Chair, let us go to the Proposed Draft Bill on page 5.

Council Chair Furfaro: Yes.

There being no objections, Proposed Draft Bill (No. 2561) was taken out of the order.

BILL FOR FIRST READING:

Proposed Draft Bill (No. 2561) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2014-781, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2014 THROUGH JUNE 30, 2015, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Office of the County Attorney, Special Counsel Account - \$67,933*): Councilmember Kagawa moved for passage of Proposed Draft Bill (No. 2561) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 5, 2014, and that it thereafter be referred to the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, seconded by Councilmember Yukimura.

Council Chair Furfaro: Thank you. I am going to suspend the rules. Mauna Kea, the motion is to approve on first reading and move it to a public hearing on November 5, 2014. Do you have anything that you would like to share with the group?

There being no objections, the rules were suspended.

MAUNA KEA TRASK, First Deputy County Attorney: Thank you, Chair. For the record, First Deputy County Attorney Mauna Kea Trask. The Office of the County Attorney would like to thank Councilmember Kagawa for moving and Councilmember Yukimura for seconding the approval of this. This does not increase any money coming to the County Attorney's Office. This money bill is to actually take money out of a Special Counsel Account that we want to close, and to prevent it from lapsing into the General Fund, to just simply put it back into the Special Counsel Account within the County Attorney's Office, so as to use in other cases. This is part of a program that we exercise for better fiscal management and accounting with our Special Counsel Account. I would also like to thank Chair Furfaro for assisting me with this process. I am not too familiar with accounting/financial practices. Thank you for that, Chair.

Council Chair Furfaro: Just to clarify, I have done this in past when I was Finance Chair, but the reality is that you had money allocated to your special funds for legal counsel. You have underspent the amount that we earmarked there, and rather than have this money lapse, we want to put it back in your account, so that it is available based on the fact that you actually reduced your budget that we are in right now. This would be replenishment to the County Attorney's funds. We have done this in the past. Again, this is only for first reading. Mauna Kea, you have time in Court today. Is that what I understand?

Mr. Trask: Actually, I have a deposition, correct.

Council Chair Furfaro: Okay. Are there any questions for Mauna Kea?

Councilmember Rapozo: Mauna Kea, how many Special Counsel funds do we have?

Mr. Trask: I think we have approximately thirteen (13) at this point.

Councilmember Rapozo: Different line items?

Mr. Trask: It is actually one (1) account, and then we come to you to seek authorization to utilize that account for certain contracts. I do not think there are separate accounts. There is one (1) account and different contracts that utilize it.

Councilmember Rapozo: Okay. I will reserve the rest for the Committee Meeting.

Mr. Trask: Thank you. If any of you have questions for the Committee Meeting, I would be happy to receive them in advance, so I can prepare my answers. Thank you.

Councilmember Rapozo: I will send them over. Thank you.

Council Chair Furfaro: Mr. Rapozo indicated that he is going to reserve his comments for when the item comes to a Committee Meeting. Councilmember Yukimura, do you have a question for Mauna Kea?

Councilmember Yukimura: Yes. Thank you. Mauna Kea, in the budget for Fiscal Year 2014-2015, so essentially Fiscal Year 2015, was how much? We are adding to that by doing this, right?

Mr. Trask: No. We got authorization to enter into this contract by the Council in late 2012. The first contract was entered into on January 11, 2013, so this money is actually from Fiscal Year 2012-2013. We no longer need it. This issue has been—it is no longer necessary, so we are taking that money, and then just putting it back into the Special Counsel fund, so it does not have a lapse into General Fund, if that answers your question.

Councilmember Yukimura: Okay. Is this not adding to the amount that we appropriated in this year's budget?

Mr. Trask: Well, actually I am not sure how to answer that question. It is kind of an accounting question.

Council Chair Furfaro: I will answer that question for you. In our budget, I believe I asked Scott to reconfirm. It went down in the budget from the previous year of eight hundred fifty thousand dollars (\$850,000) to six hundred fifty thousand dollars (\$650,000). We underfunded, under-budgeted, or in reality cut the Special Counsel Account for the County Attorney's Office by two hundred thousand dollars (\$200,000) from budget to budget. This sixty-seven thousand dollars (\$67,000) was money not used for a case that has closed, so it is actually going in, JoAnn, to that fund to make that fund approximately seven hundred twenty-seven thousand dollars (\$727,000), which is still one hundred thirty-three thousand dollars (\$133,000) down from the previous year in round numbers.

Councilmember Yukimura: So we are adding sixty-seven thousand nine hundred dollars (\$67,900) to six hundred fifty thousand dollars (\$650,000) minus whatever has been already been spent in this Fiscal Year.

Mr. Trask: Correct.

Councilmember Yukimura: Okay. Thank you very much.

Council Chair Furfaro: Mr. Hooser.

Councilmember Hooser: So we have one (1) fund, and then just for my benefit and the public, so when we spend from that fund, the County Attorneys come and tell us that they need twenty thousand dollars (\$20,000) for this person, then that comes from that fund. Is that correct?

Mr. Trask: That is my understanding.

Councilmember Hooser: You said there was one (1) fund and thirteen (13) line items, so the thirteen (13) line items are thirteen (13) different Special Counsels?

Mr. Trask: No, I did not say "line items."

Councilmember Hooser: I thought you said "line items."

Mr. Trask: Again, a lot of these terms I do not understand, so if I use a term, I do not mean for it to have the accounting definition. My understanding is that there is an account, and that is stated in the Bill, "the

Office of the County Attorney Special Counsel Account 001-0301-513.32-01.” What we do is when we need the Special Counsel, we get authorization from the Council for that. We earmark the money within that fund to be used to a certain contract. It is not a line item as I understand it. It is actually just a Special Counsel contract. If that contract ends and we no longer need the money and we cancel the contract, the money from our Special Counsel Account that was put to that contract automatically lapses into the General Fund, which we no longer have control over and would have to come back to this body at some other time for a money bill to put money back in. What this seeks to do is streamline the issue, so as to avoid it lapsing and keep the money in the Special Counsel Account to be used after, with your permission, in other Special Counsel cases. That way, it is just a more hands-on management of the contracts. As the Chair said, it has been done in the past and it was seen as the appropriate thing to do in this case because once it goes into the General Fund, all of the other departments will need to vie for that money.

Councilmember Hooser: So if we did not pass it, it would lapse into General Fund and it could be used for Transportation or whatever, but they would have to ask for it. When the County Attorney’s Office got to the end of the six hundred fifty thousand dollars (\$650,000) or when your existing fund starts running short, then you would come to us and ask for similar amounts to move forward?

Mr. Trask: Yes. This is to keep the money in the fund because it has existed in there since about 2012.

Councilmember Hooser: Thank you.

Council Chair Furfaro: Just for everybody, I made a presentation last year on this process. If you do not remember, I will before November 5th share with you that presentation I made on how this occurs. Maybe that will refresh all of our memories. We will do that, but I want you to be well prepared. I believe only myself and Mr. Bynum are not on the Committee. The public hearing date is for November 5th and I will send you that presentation, as well as all the members. Mauna Kea, thank you. Have a good day with your deposition. May I take public testimony? Is there anyone who wishes to testify on this item?

There being no one to give public testimony, the meeting was called back to order, and proceeded as follows:

The motion for passage of Proposed Draft Bill (No. 2561) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 5, 2014, and that it thereafter be referred to the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee was then put and carried by the following vote:

FOR PASSAGE:	Bynum, Chock, Hooser, Kagawa, Rapoza, Yukimura, Furfaro	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Furfaro: Scott, may I ask you to resend my presentation to all members before November 5th. We will go back to our regular agenda here, but I want to reconfirm that there were some members of the Council that asked me if we could handle the financial matters first because they will be

potentially leaving this afternoon. I think that request came from JoAnn and Mr. Chock. Am I correct? Would you want to do that now? Was that not your request? I just want to make sure if the drop dead time is 5:30 p.m. and we start this thing at 4:20 p.m., we should limit our conversation, so that we have everybody here to vote at 5:30 p.m. Okay, you had your opportunity. I made it on the table. Let us move forward.

COMMUNICATIONS:

C 2014-261 Communication (09/10/2014) from Council Vice Chair Chock, transmitting for Council consideration, a proposed draft Bill for an Act relating to the Transient Accommodations Tax (TAT), which restores the Counties' share of TAT revenues to forty-four point eight percent (44.8%) of the total TAT collection, for inclusion in the 2015 County of Kaua'i Legislative Package: Councilmember Kagawa moved to approve C 2014-261, seconded by Councilmember Rapozo.

Council Chair Furfaro: I have a motion and second. Mr. Chock, I will give you the floor. This is your suggestion. May I do a quick recap for everyone as it was read? The total TAT tax money this year is about three hundred seventy-eight million dollars (\$378,000,000). When Mr. Chock is referring to the forty-four point eight percent (44.8%), he is saying that roughly forty-four point eight percent (44.8%) of that will go to the Counties. Of that number, we then have an opportunity to get our share, which is about fourteen point one percent (14.1%), so just to clarify that. You have the floor, Mr. Chock.

Councilmember Chock: Thank you, Chair. I just wanted to also reiterate that this is about asking to restore the Counties' share of the TAT revenue, and while it may seem a little redundant, it is on the Hawai'i State Association of Counties (HSAC) Legislative Package a little further down on the agenda. I think my intention is to have a unified voice, and by putting this into action, where we are standing behind it as I hoped. In last year's effort, our Council Chairs, our Mayors, and our Councils' interests are all being heard collectively, so that we might be more successful this year. Thank you.

Council Chair Furfaro: JoAnn.

Councilmember Yukimura: I have a question. So the Bill that you are proposing here, and I thank you for putting it on the table, is exactly the same as the one in the HSAC package?

Councilmember Chock: My understanding is that it is exactly the same.

Councilmember Yukimura: Okay, so there is no conflict there. We are, as you intend, starting with a unified voice. Thank you for clarifying. I have a few comments, but I will wait to see if there are other questions.

Council Chair Furfaro: I also want to say that it is consistent with the communication from the four (4) County Chairmen. I will reissue that all four (4) of the Chairmen agreed on, and I will do that sometime this week. Additional comments? Mr. Kagawa.

Councilmember Kagawa: I have comments, but I will keep mine short...



Council Chair Furfaro: I am going to give time for comments again, but I need to get public testimony first. Do you want to have the floor now?

Councilmember Kagawa: No, I have discussion for later.

Council Chair Furfaro: Very good. Anybody else wants the floor before I give it back to JoAnn? JoAnn, you have the floor.

Councilmember Yukimura: So just to clarify what the dollar amount would be under this formula of forty-four percent (44%) of the three hundred seventy-three million dollars (\$373,000,000) total, and then of that, fourteen point one percent (14.1%) to the County would yield about how much?

Council Chair Furfaro: About twenty-four million one hundred thousand dollars (\$24,100,000).

Councilmember Yukimura: Okay, so twenty-four million one hundred thousand dollars (\$24,100,000).

Council Chair Furfaro: We are currently earmarked to get only about fifteen million dollars (\$15,000,000), so we are nine million dollars (\$9,000,000) short.

Councilmember Yukimura: So it will give us another nine million dollars (\$9,000,000) in addition to the amounts we are receiving now for a total of twenty-four million dollars (\$24,000,000). Thank you for that clarification. I will have comments after you have taken testimony, Chair.

Council Chair Furfaro: I want to say that those are rounded numbers because I am using the current total package, but if occupancy and rates improve, it could be more.

Councilmember Yukimura: Or if they decline; either way, it is off of a base that fluctuates is what you are saying.

Council Chair Furfaro: Yes.

Councilmember Yukimura: Thank you.

Council Chair Furfaro: I am going to suspend the rules and see if anyone wants to give public testimony. Anne, please come up.

There being no objections, the rules were suspended.

ANNE PUNOHU: *Aloha.* If you do not recognize me, my name is Anne Punohu. Thank you very much, Mason. I understand that we are looking at fourteen point one percent (14.1%). I am excited to see the Counties unified and united. I hope everybody stands strong and sticks together on this. We deserve it. We have needed it for a long time and it is our right to have our fair share of the TAT. I had a question. What will the additional money do if we do get fortunate enough to get it? Where does that money go to as far as being beneficial to the community and the people? Does it go into the General Fund? That was my question. Thank you very much for doing it. I guess not to be redundant because I will not testify again, but I agree with the package and everything. *Mahalo.*

Council Chair Furfaro: Anne, I want to add something, so that nobody is confused on this piece. Based on the Bargaining Units and the fact that even as we pass bills to pass on additional taxes to our interval ownership groups and so forth—based on the forecast, the County of Kaua'i is looking for another six hundred eighty thousand dollars (\$680,000) for our Police Department and so forth, so we are probably looking for about nine million dollars (\$9,000,000). It is not "found money," but money that needs to cover existing expenses. I just wanted to clarify that.

Ms. Punohu: Thank you. At least we will be able to cover and it will help.

Council Chair Furfaro: That is the hope.

Ms. Punohu: Thank you for clarifying.

Council Chair Furfaro: Does anybody else wish to testify on this item? If not, I will call this meeting back to order. Mr. Chock, I will give you the floor first since this is your Bill, and then I will recognize Mr. Kagawa who wanted to make comments.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Chock: Thank you, Mr. Chair. I will keep it short. This is a "no-brainer." We need this to help balance our budget. It is what we expect and what we deserve as mentioned, and my only hope is that we can be unified in voice on this request. I appreciate any consideration from our Councilmembers to continue that discussion in supporting it.

Council Chair Furfaro: Mr. Kagawa, you have the floor.

Councilmember Kagawa: Thank you, Mr. Chair. I think it has been four (4) years since the County of Kaua'i has suffered without our full portion of the TAT. It amounts to about ten million dollars (\$10,000,000) per year that we are short. That is a huge amount. While I appreciate having this communication reiterated, I think as far as I am aware of, there has never been any non-unified voice by any County for the TAT. It is not a bad thing not to do something redundantly, but the fact of the matter is that as Council Chair Furfaro pointed out, it is critical that we get these ten million dollars (\$10,000,000) from the State. If you account for the latest communication that I saw, it was about eight million dollars (\$8,000,000) in the hole, counting next year's obligations; plus, an additional two million dollars (\$2,000,000) that we may approve today in giving relief to homeowners on Kaua'i with large tax increases. We are looking at ten million dollars (\$10,000,000) right there. If we get this share of the TAT, that could basically put us at even. We will not be broke and we will not be very profitable, but at least we will pay all of our obligations with the TAT. I think we all are united, all of the Counties. We just need to do a better job of lobbying and lobby through our citizens. I think the citizens have the power. It is you who we need to knock on the doors of our Representatives and of our Governor. I think the government officials and HSAC doing the lobbying has not worked in the past four (4) years. It is critical that the public take that message to the State and say, "Hey, we pay a lot of State taxes. We deserve to have a say in how our State moneys are used and we want to see our County infrastructure improve and our County roads get better, like Puhi Road. We need our fair share as we did before four (4) years

ago when this started to happen.” To the public, please help us get our fair share back because it is critical. Thank you, Chair.

Council Chair Furfaro: Thank you, Mr. Kagawa. Is there anyone else who wants to comment on this? Mr. Rapozo.

Councilmember Rapozo: Thank you, Mr. Chair. I think Ross said it best: the resolutions, bills, and lobbying— I can personally say that I have lobbied for this for the past several years as HSAC President, but we share the same constituents as our State Delegation like Senator Kouchi and Representatives Kawakami, Tokioka, and Morikawa. They all have E-mails as well. Many of our controversial issues in this County— we got flooded with hundreds, if not thousands, of E-mails on a daily basis and it happens until today. In this case, those E-mails need to be sent over to them and to the people at the State Legislature that make that decision. I have heard our Delegation’s justification for not doing this. You guys, as Ross has said, need to change their mind. I cannot agree with our Delegation’s position that we should not get anymore, but we cannot force them. We are seven (7) votes... and not even seven (7) because we all live in different districts, but you folks collectively can influence their vote. I encourage my colleagues in the other Counties to do the same with their constituents. That is the only way it is going to work because Mel Rapozo, Chair Furfaro, Chair Baisa, and all of us can go up and talk to them. We have done it for years and it has not worked. Again, I think it is time that those thousands and thousands of E-mails need to be going to them, so that they understand that the people want this to be restored because we suffer the impacts. We enjoy the benefit of the visitor industry, but we also incur some of the impacts like additional traffic and additional toll on our public facilities like the restrooms at the beaches. All of that— as Mayor Billy Kenoi said: “the tourists land, they drive on a County road, they go to a County beach, they use a County toilet, they use County toilet paper, and they flush the public toilet”— he is graphic, but he is right. I think we need to send that message, but we need your help. Thank you, Mr. Chair.

Council Chair Furfaro: I think Mr. Bynum wanted the floor next.

Councilmember Bynum: I will pass for now.

Council Chair Furfaro: Sure. I will come back to you later. JoAnn, do you want the floor?

Councilmember Yukimura: Yes. Thank you. Twenty percent (20%) of the daily population on Kaua’i are visitors, roughly speaking. So that means twenty percent (20%) of our operating costs as a County: police, fire, parks, roads, and overtime pensions— they are all visitor-related expenses, and in some cases like rescues, I think the proportion is greater than twenty percent (20%) of our rescues. It is wrong that local taxpayers would be asked to pay for visitor impacts, especially when there is the framework of the TAT, the Transient Accommodations Tax, to get back from the visitors to pay for some of their impacts. The Counties really deserve to get a fair portion of that TAT. It is not true that we have always been unified. Last year, the Hawai’i Council of Mayors chose not to focus on the TAT. Instead, they asked for a half percent (0.5%) excise tax. There was nothing officially in the package for TAT expansion or for the return of our share. It was the Council Chairs who took the initiative in the last session, but we were somewhat in opposition to the Mayors, who had taken another position. I am hopeful that this year, we will be united in saying unanimously and it means Mayors, Councils, and citizens saying that the Counties deserve their fair share of the Transient Accommodations Taxes. That will allow us to restore the funding of our pension fund, which last year we

deviated from the very ethical and future-oriented position of funding our pensions in full. Last year, we deviated and we funded it less than one hundred percent (100%). That was a wrong direction, but we did it because we did not have enough revenues to cover all of our needs. We will also be able to increase our reserve back to a healthy proportion that will allow, hopefully, our bond rating to go up, so that we can do these much needed capital projects at a reasonable and lower interest rate. In all these ways, we need the visitor tax share, our share, and I am very grateful to Vice Chair Chock for his introduction of this Bill and this position before the State Legislature.

Council Chair Furfaro:

Mr. Hooser, you have the floor.

Councilmember Hooser: This is a really important issue and I want to echo what someone said. I do not think we can say it often enough. The nature of lobbying is repeating it over and over again and educating the policymakers, so I am hopeful that the State policymakers, our Legislative Delegation, will hear this message loud and clear from us as a Council and our community because that is how things move because there are competing priorities. We are saying, and rightfully so, that the citizens of Kaua'i deserve these funds. They were taken away; we are entitled to them; and we deserve them. We are asking our Delegation, as well as the Governor and other legislators, to get behind this movement. I want to applaud again the leadership of Councilmember Chock for bringing this forward. It is easy sometimes just to say—we can all talk and if it happens, it happens, but to actually focus on it and get it on the table, out in the community, out in the public, and to make that commitment that we are going support this and continue pushing for it and take some leadership. Again, Councilmember Chock should be commended for that. The money has to come from somewhere. Either it comes from increased taxes and fees or from reduced services. We cannot do it all and we need help from the State. It is just that the people of Kaua'i and the County of Kaua'i are entitled to it. Like Councilmember Rapozo said, it is really up to the citizens to put that message out to our local Legislative Delegation and make sure that they put this as their number one priority. There are two (2) essential things that State and Federal legislators do: they have districts; and they "bring home the bacon" and they pass policy. The "bacon" for us is really clear right now—it is the Transient Accommodations Tax. We can get money for this and money for that, but really, we need to ask our Delegation to put their shoulders to the task and insist. The neighbor islanders represent about one-third or so of the entire State Legislature and that is a very powerful force. Even though it affects every County, it affects neighbor island Counties more than everybody else, I believe. Again, the unified approach is the best approach and I applaud all of us for taking this step. Thank you.

Council Chair Furfaro:

Councilmember Bynum.

Councilmember Bynum: Yes, this is a very important issue and I want to applaud Councilmember Chock for putting this on. Had we not, it would have been silly for us, so thank you for picking that up and putting it on. It is not redundant because the HSAC package has General Excise (GE) and other issues and the HSAC policy may not stay the same between now and the end of the Legislature under the current rules, as the way they were amended. Let us talk about some truth: when this was first attacked Donna Kim sat across of me in the senate and said, "We are taking your TAT, but no worries because we are going to give you GE and you can get twice as much money for your County from GE." GE is an awful, regressive tax and we should never have ever considered that and that is what I told her then. In the first year, the Legislature did not touch us and we did a great job. Our four (4) Mayors stood up outside the thing and said, "Over our dead

bodies you are going to do this,” and they did not touch it. The next year was like, “Well, we are going to take some.” Instead of us saying, “No you are not,” we said, “Well, please do not take all of it.” We started softening our stance. Last year, we were in total disarray, or maybe the year before. HSAC met the day of the Legislature and changed the policy. HSAC said, “Yes, we want the GE,” and some of the Mayors said, “We want the GE.” Council Chair Furfaro organized the Chairs, I believe, and said, “No, we need a voice because that is not what we said here on Kaua‘i.” This is very important that the County take its own legislative position on this. What the fact is is now, the Legislature has taken a big hole out of our budget and it has been made up in no small part by local people paying higher taxes and fees. The industry has not stepped up. We increased fees on vacation rentals, but not near the amount that fills the hole that was left from this lost revenue. So people drinking Mai Tais at the Hyatt do not have to pay for their services because the maids who clean their room and the bartender who served them the drink will pay it. That is what we are talking about and how fundamental it is and how serious this issue is. This is very important. I will never support a General Excise Tax to fund anything at the County level. It was Mayor Arakawa who turned the other Mayors. Let us just speak the truth. I do not have to make friends on Maui. It was his leadership that has said, “No, let us tax our people when they get haircuts and pay their rents and medical bills, instead of having visitors pay a small fee when they enter their hotel room to pay for the lifeguards or help pay for them.” Not completely. This is very important and I am in total support. Thank you.

Council Chair Furfaro:

I guess it is my turn to speak.

Councilmember Rapozo: Mr. Chair, can I just make a quick comment. We need to be really cautious because at the end of the day, the State Legislature makes that decision. We have to be cautious when we speak about them. I will say this, too, and this is the response that I get from the Legislature, not just our Delegation, but others on the other islands that it is allocated by the State law how much percent each County gets. When you look at the total system, like in your tax system, there is a “giving state” and a “receiving state.” In some states, we pay more into the income tax system than we get back. That is called the “giving state.” If in some states they get more back in income tax that their population puts into the system, that is called a “receiving state.” In this circumstance, Hawai‘i with the TAT, Kaua‘i is a receiving state, which means that we receive more of the TAT percentage wise than we put in. So we have to be careful. Basically, if we “piss off” the State Legislature and they decide, “Okay, we will reallocate the percentages.” There is a chance we could lose. We need to be very careful because we are dealing with politicians just as well. We need to come across in a cooperative way, but realistically, those guys can do the right thing and equalize everything, and Kaua‘i would be on the short end of the stick. We just have to be real careful. Thank you.

Councilmember Bynum:

May I respond?

Council Chair Furfaro:

Mr. Bynum, if I recognize you a second time with the comment period, that is your second time. You have the floor.

Councilmember Bynum: It felt like Mr. Rapozo was commenting on something that I said. I would just like to say that I have been hearing this since day one, “Do not piss off the Legislature. They might hurt us bad.” They did. They hurt us bad. Do they not have to be held accountable for the decisions they make? We have to take care of them? I do not think so.

Council Chair Furfaro:

For the purposes of discussion in the future, maybe we can use the term “shishi” or something. Look— here are the facts: my

position has never changed on the TAT. We need to realize how important it is for us to work together with everyone in the political arena. That is number one. Number two, part of our problem—I have had this discussion with Sandy Kato and Peter, but because of our mix of hotel rooms, companies like Aston, Wyndham, and Castle report their TAT tax from their central office in Honolulu, and because it is reported from Honolulu, sometimes people think that is the Honolulu tax. We really have to understand what our share is, regardless of whose central accounting system is paying it where. That is number one. That has always been in my testimony to the Legislature. We do not have a fine line of how much our contribution is. Sandy and Peter, when I talked to them, they were very cooperative in raising that with their corporate offices. I do not know if that has gone any further, but it is something that Steve Hunt needs to see if we can plead fair. Last night, I watched the Governor's debate, and I want to put this to bed, every candidate, whether it was a republican, democrat, or independent indicated that they do not support a GE Tax. That might even be "dead on arrival" to the Legislature. I listened very closely to what they said. Based on that, we need to make sure that those folks who are on Maui, whether it is the Mayor of Maui; Joe Souki, Speaker; or the Lieutenant Governor—these are Maui people and as Counties, we need to work together on this issue. We need to go in and plead the amount that we spend on servicing our visitors. JoAnn touched on that. One (1) in five (5) of our population on any given day is a visitor that has requirements for public service like police, fire, water safety, rescue, and public parks, and that is the theme that we have to sell on this. My position has always been that we have demands that require an allocation of fair support. I want to thank Vice Chair Chock for introducing this. It will be introduced the same way as my testimony that has not changed in several years. Please know that we do have an accounting challenge because some of these smaller management companies report their TAT from a central office, and so who is contributing what is not always clear.

The motion to approve C 2014-261 was then put, and unanimously carried.

Council Chair Furfaro: Thank you for the healthy discussion. I think we are going to continue into HSAC now.

Councilmember Rapozo: Mr. Chair, I just want clarification on the County Package. This would require the Mayor's approval as well, right?

Council Chair Furfaro: I believe that is how I understand it.

Councilmember Rapozo: I just wanted to mention that just so that the public understands that this is a recommendation and for it to make the County Package, it still has to be agreed upon by the Mayor. Thank you.

Council Chair Furfaro: Based on that item, we are going to go to the HSAC Package, please.

SCOTT K. SATO, Council Services Review Officer: Did you want to take up C 2014-262 first, the Prosecuting Attorney's grant approval?

Council Chair Furfaro: Yes.

Mr. Sato: Okay.

C 2014-262 Communication (09/15/2014) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend federal funds in the amount of \$17,316, for the Services-Training-Officers-Prosecutors (STOP) Violence

Against Women Grant to host a Domestic Violence Training on Kaua'i on October 23-24, 2014, for twenty-five (25) Deputy Prosecutors, Victim Witness Counselors and Attorneys from the Attorney General's Office from the different counties in the State of Hawai'i: Councilmember Yukimura moved to approve C 2014-262, seconded by Councilmember Bynum, and unanimously carried.

Council Chair Furfaro: Before we go into the next communication, I just want to make a housekeeping note here. In about fifty-five (55) minutes, I have to leave, so I would think that we would take tax bills up after lunch. I made that offer about half an hour ago, but if anybody is here specifically for the tax bills, I think it will be closer to 2:00 p.m. Let us go to the HSAC piece.

C 2014-263 Communication (09/18/2014) from Mel Rapozo, Hawai'i State Association of Counties (HSAC) President, transmitting for Council consideration the following proposals to be included in the 2015 HSAC Legislative Package and a list of Legislative Priorities, which were approved by the HSAC Executive Committee on September 15, 2014:

#### 2015 HSAC LEGISLATIVE PACKAGE:

1. A Bill for an Act Relating to Transient Accommodations Tax (Proposed by the County of Maui)
2. A Bill for an Act Relating to the Pacific International Space Center for Exploration Studies (Proposed by the County of Hawai'i)
3. A Bill for an Act Relating to the Hawai'i Health Systems Corporation Primary Care Training Program (Proposed by the County of Hawai'i)
4. A Bill for an Act Relating to Abuse of Family or Household Member (Proposed by the County of Hawai'i)
5. A Bill for an Act Relating to Evidence (Proposed by the County of Kaua'i)
6. A Bill for an Act Relating to Zoning (Proposed by the County of Kaua'i)

#### 2015 HSAC LEGISLATIVE PRIORITIES:

1. Transient Accommodations Tax
  2. Retail Sales Tax
  3. General Excise Tax
  4. Open Government (including the Sunshine Law and Uniform Information Practices Act)
  5. Transportation
  6. Capital Improvement Projects
- (Proposed by the County of Maui)

Councilmember Kagawa moved to vote on each item at seriatim, seconded by Councilmember Rapozo.

Council Chair Furfaro: I would like to see if we can go through these items individually, so that the public has an opportunity to hear all of them, and then take testimony from the public at the end. Is that acceptable for your item?

Councilmember Rapozo: Sure.

Council Chair Furfaro: Okay. I am going to give you the floor.

Councilmember Rapozo: Thank you, Mr. Chair. I think we have had the discussion on item number 1 already, so I would like to entertain a motion...

Council Chair Furfaro: Excuse me, but even though I repeated the motion for seriatim, I hope that is the one we are making now.

The motion to vote on each item in seriatim was then put, and unanimously carried.

Council Chair Furfaro: Thank you.

1. A Bill for an Act Relating to Transient Accommodations Tax (Proposed by the County of Maui)

Councilmember Yukimura moved to approve A Bill for an Act Relating to Transient Accommodations Tax (Proposed by the County of Maui), seconded by Councilmember Kagawa, and unanimously carried.

2. A Bill for an Act Relating to the Pacific International Space Center for Exploration Studies (Proposed by the County of Hawai'i)

Councilmember Kagawa moved to approve A Bill for an Act Relating to the Pacific International Space Center for Exploration Studies (Proposed by the County of Hawai'i), seconded by Councilmember Bynum.

Councilmember Rapozo: Any discussion? Councilmember Yukimura.

Councilmember Yukimura: I have some reservations about this. It is a money bill for one million six hundred thousand dollars (\$1,600,000) and while I think the purpose is a good one, when you think about some of our other needs, I am not sure that this is a top priority for Kaua'i County or even for the State. I would rather pay for school lunches or to support our health care system and its survival; the State health care system. So I feel a bit awkward in making this an HSAC priority. I am open to hearing other thoughts because it is not something that has been very much discussed, if at all. But just off the top, I have my concerns.

Councilmember Rapozo: Mr. Kagawa.

Councilmember Kagawa: Thank you, Chair. I understand Councilmember Yukimura's concerns. HSAC encompasses the whole State and at times, I think it is our duty to be supportive of other opportunities by other Counties to try to expand areas to diversify their economy. When we have our chance and we have an area that we want to diversify from *per se* agriculture or what have you, we would need Maui, Hawai'i Island, and the City and County's support in order to have this on the package and have a stronger chance at getting



the State to support us. We had the Waimea Technology Center at one time and people said, "Why do a technology center in Waimea?" Look at how successful it became. We have to keep our options open, and at times, even though it does not directly affect us, I think at times we have to consider giving our support then and hopefully in return, we will have the other Counties' support. For that reason, I will be supporting this one.

Councilmember Rapozo: Mr. Bynum.

Councilmember Bynum: I would like to echo the things that Mr. Kagawa just said. What we know from the Hawai'i State Association of Counties is that for our colleagues in Hawai'i County, this is a priority enough that they have asked us for our consideration and that is enough for me. Thank you.

Councilmember Rapozo: Mr. Hooser.

Councilmember Hooser: This shows a diversity of opinion and different outlooks and values that each of us has and I think it is a good discussion to have. I kind of support Councilmember Yukimura's position. I think as a government, we just have to stop saying "more, more, more, and more" and asking for everything. We are facing big budget shortfalls and we are asking for TAT to increase our budget. Now we are going say that we want the TAT plus we want another two million dollars (\$2,000,000) for this other program. I agree at the core government services of health and safety and education are where we should put our funding and finances. I think this request does not fit into the paradigm of spending our money wisely and needs and wants. We need the TAT and we have a lot of other core needs, so I think spending one million seven hundred thousand dollars (\$1,700,000) to support a Pacific International Space Center for Exploration Studies is not something that I will be supporting at this time. Thank you.

Councilmember Rapozo: Thank you, Mr. Hooser. Anyone else?  
Councilmember Yukimura.

Councilmember Yukimura: I really do not agree with this "I scratch your back, you scratch my back," and because we might need your support next time, we should give our support this time. We really have to look at the merits of the issue and on the merits if this is the most important for four (4) Counties or us statewide. There might be some other space stuff on other islands. I think there are some efforts even at the Pacific Missile Range Facility (PMRF). Who are we to make decisions on the statewide priority on this subject, which we have had so little input on? Again, in terms of high priority, the State health system... the Veterans Hospital and Mahelona Hospital are far more important to me. If we had a lot of money, certainly space exploration is something that we need to look at but, we are struggling to survive as a State. I think the more relevant issues are our health and education.

Councilmember Rapozo: Thank you. Mr. Chock.

Councilmember Chock: I like the way the discussion is going and I think that there is a lot of validity to what is being said in terms of priorities. I am supportive of this and I just want to read this portion of what this initiative is about. "In the short-term, the center seeks to carry out its goals of researching a sustainable concrete supply, robotic operator training and certification, and economic development by invigorating presently dormant business sectors in Hawai'i." To me, that translates into jobs. The message for me that I would like to forward to HSAC is that TAT is number one and we have a list of priorities, which

this would come somewhat lower for me, but I am willing to continue the discussion and support what the interest is. Thank you.

Councilmember Bynum: I just have a follow-up with a couple of process questions. By this being on here, does that mean that a majority of the Hawai'i Island Council requested this?

Councilmember Rapozo: The Hawai'i Island Council?

Councilmember Bynum: Yes.

Councilmember Rapozo: Do we have the resolution? I do not have the resolution with me, but yes, this means that the majority of Hawai'i Island Council approved it. I could not say if it was unanimous, but it would have to pass Hawai'i Island Council to get here.

Councilmember Bynum: Is it okay if I continue?

Councilmember Rapozo: Yes.

Councilmember Bynum: I just want to object to the "I scratch your back, you scratch my back" comment. That is not how I see it. I think Mr. Kagawa was very clear. I will give you an example. He gave a great example. In the past, putting money into a technology center in Waimea was a really good economic development tool that did lead to good jobs and a whole bunch of other great things that I will not go into. It was a very big priority and similar circumstances are occurring here. A technology center made sense there because of PMRF. This makes sense on Hawai'i Island with the Keck Observatory and all of the history of Hawai'i Island's involvement in these issues. This is an economic development tool for them. It is not tons of money and they have thought it such an important priority that they brought it to us. It is not an "I scratch your back, you scratch my back." It is a recognition that the neighbor islands need to join together to help direct some of the priorities. In the long run, those priorities will be germane to our State legislatures and State priorities, but I take very seriously when a neighbor island reaches out to us and asks for our *kōkua*. Thank you.

Councilmember Rapozo: Thank you. The resolution was passed 8:1 with Councilmember Wille as the only one voting "no." Councilmember Kagawa.

Councilmember Kagawa: I was kind of shocked at that "I scratch your back, you scratch my back" comment. I think we have three (3) votes in the House and one (1) vote in the Senate. If every island was just selfish and only cared about themselves, then nothing would be passed. What would we say? "The Legislators are all corrupt." Would we call them names? There is a process. There is a way to get to be successful at the Legislature and it is working sometimes with other groups, and working together and having that trust that when it comes your time, we remember. That is how it works. That is the Legislature. Some may say that politics is terrible, but that is how it works. If we do not work together with our allies and cohesively try to be successful when we can, we will never be successful. I just want to say that that working with our other Counties at times is beneficial for us in the long run. I do not want to be short-sighted and just think decision-by-decision what is best for Kaua'i because am I looking out for the future? Am I looking out for our children? I just want to say that it does not come down to being selfish all the time. Sometimes you have to give a little to get something down the line. Thank you.

Councilmember Rapozo: Thank you. Mr. Chair?

Council Chair Furfaro: I am going to support this, but I would suggest to HSAC that we asked them that when it comes to the State spending programs that they want us to buy-in, it would be very, very good for us to get more information about an "Return On Investment (ROI)." This is a different word for "back scratcher" in accounting. What does that do in the employment scene? What kinds of jobs are they? What contributes to the educational opportunities? I just want to say that it would be good to bring that message back when they are asking about that kind of money because the State hospital system and the State retirement fund and the liability— that is eighteen billion dollars (\$18,000,000,000) that the State is looking for. No wonder they keep on tapping our TAT. We should ask for an ROI in the future, but I will be supporting this now. Thank you.

Councilmember Rapozo: Councilmember Yukimura.

Councilmember Yukimura: This is an HSAC Package; this is not a Hawai'i County Package or a neighbor island package. The question that we all have to answer is whether this particular proposal, Pacific International Space Center for Exploration Studies is something that is important to all Counties and of utmost importance above individual projects that we want to seek here. I do not think the burden of proof has been met, that this trumps other really big priorities that are not in this package, too. It is a message that says this is more important than some of our educational needs statewide for all Counties. I think it is a very appropriate thing for Hawai'i County or Maui County, or wherever this is— it is not clear to me...

Councilmember Rapozo: It is Hawai'i Island.

Councilmember Yukimura: This is very important for Hawai'i Island, but it is not a statewide importance. I believe that the HSAC Package has to be of statewide importance to the Counties; all of the Counties. I do not think this Bill meets these criteria. This thing about, "Well, we might need them in the future," takes away from really evaluating this project and its merits based on the criteria of statewide importance for Counties.

Councilmember Rapozo: Councilmember Yukimura, I would ask you if you had the opportunity to read Hawai'i Island's resolution. Did you have the opportunity to ask any questions prior to today? This was on the agenda for almost one (1) week. You are reading one line in the agenda and you are reading the justification sheet, but did you take the time to educate yourself on the matter rather than say that this has no statewide implication? Do you actually know that?

Councilmember Yukimura: No, I do not.

Councilmember Rapozo: Okay. That is the question.

Councilmember Yukimura: I am very open to any of you educating me right now.

Councilmember Rapozo: Unfortunately, HSAC is on O'ahu, but HSAC does have minutes and I will ask Ashley from this moment forward that we provide every member of the Council with the minutes. It is assessable. I see things on the agenda that requires me to make a call, "Hey, Planning, Public Works, Hawai'i Island; help me." It is not fair to Hawai'i Island because I can tell you— I will save my comments for the end. Councilmember Bynum.

Councilmember Bynum: I just want to say that as Councilmember Hooser stated his opposition best on priorities, that is fair game; that is appropriate. My judgments are different, but to characterize this as a *quid pro quo* kind of thing is what I think a lot of us are chafing at. I have done a little research on this and I do think that it is of statewide importance. I just said that in my previous testimony. If you have been to the Keck Observatory and know what has been happening on Hawai'i Island regarding space and exploration for many, many years, this is consistent; something that we are proud of as a State, just like how I hope the rest of the State is proud of our good work on PMRF and the technology center. Thank you.

Councilmember Rapozo: The HSAC Package is very simple. JoAnn, you already had your two (2) turns, so you are done because we are going to get to the vote, but I just want to make some comments. This program was a University of Hawai'i at Hilo program, and because of budget cuts, this program was transferred over to the Pacific International Space Center Exploration System. They currently run the statewide robotics programs for all of the high schools. They are on the verge of securing this technology that will provide sustainable concrete for the entire State and possibly the entire Nation, so there is a lot of benefit. There is a lot of economic benefit; there is a lot of economic development; and utilizing green technology. It is a statewide issue. I would tell you that if I just sat here today and I had to vote without knowing, I would vote "no" for the HSAC Package. I would have said "Hell no." In fact, when I saw the HSAC agenda, I was like, "What the heck are they thinking? They are going to take the HSAC Package to go help a Hawai'i Island organization?" It is much more than that. It is a huge operation that is going to benefit the State. Believe me, Kaua'i, Maui, Honolulu, and Hawai'i Island are no different at HSAC. We are not going to support for the HSAC Package something that is only going to benefit one (1) island. That is simply not allowable. This is a statewide effort, much like the next item that they have as well. Hawai'i Island introduced for the Hawai'i Health Care Systems. It is the same thing. One could argue, "That is for Hawai'i Island," but not it is not. It reaches out to the entire State. That is why it passed HSAC and that is why it is here today. With that...

Councilmember Yukimura: I have a question, please.

Councilmember Rapozo: Go ahead.

Councilmember Yukimura: What did you say about making something sustainable?

Councilmember Rapozo: They are working on a technology that will provide sustainable concrete, so that we do not have to import all of our ingredients to make concrete. It is a fabulous technology. They are very close to doing it and I believe they will. It is just a great program. Mr. Hooser.

Councilmember Hooser: I will state my concern. I think it is a nature of these kinds of packages and this discussion that we do not have the benefit of a lot of due diligence. The other items may have been at the Legislature before and may have had testimony submitted and we do not really have the time or take the time to go through our regular processes as if we were passing a regular ordinance or regular resolution. That is part of the problem and I am sure there are lots of benefits to each and every one of these programs. I come back to "we cannot have it all." As a government, at some point we have to tighten the belt and put our focus on health, safety, and core responsibilities. We are asking for the TAT to come

back. We cannot ask for more money, and then at the same time, ask to just keep spending money. It does not work that way; it cannot work that way. I believe in helping out our colleagues as much as anyone does, but I do not believe in violating any core principles or anything like that in trying to do that. I think people and the legislators understand that you have reasons why you may or may not support something and that if a legislator is going to hold that against us, I am certainly not going to let that drive my vote. I just think fundamentally the State has other priorities that they should focus on in this time of decreasing revenues and tight budgets. Certainly, the County of Kaua'i needs to focus on increasing revenue and not spending revenue. Thank you.

Councilmember Rapozo: Mr. Chock.

Councilmember Chock: Councilmember Rapozo, I just have a question about HSAC if you could help shed some light on the criteria and strategy that might help us make a better determination in putting the Legislative Package together. Is there something that HSAC follows in terms of determining? It sounded like yes because it has to benefit everyone for sure. Then in terms of the strategy for this specific session, what is that strategy?

Councilmember Rapozo: It is really— I forget what the total was— maybe Ashley can help me with what the total introductions was for the HSAC Package from all Counties. Do you remember what the number was? Not everything passes at the State level. Do not worry about it, Ashley. Not everything that comes into HSAC passes. It requires unanimous consent, so all four (4) members need to approve of it. I can assure you that it is not “I scratch your back, you scratch my back.” I can tell you that that does not occur and if you doubt me, then go ask Ashley because there are some battles on that floor as well. It is simply put as “you folks have elected me to represent you,” much like our constituents elect us to represent them. There is some sort of reliance on what the representation is going to be. You are not going to hurt my feelings or break my heart if this does not pass. This is just a process that we go through and if you do not have enough information, then I would not expect you to support something that you do not have enough information on. I will also say that every Councilmember here has an opportunity to introduce a resolution to make it to the HSAC Package. If it is school lunches or whatever you want— we had a couple that Kaua'i did put forth this year: one was for zoning and one was for testifying at Court. Every one of us has an opportunity. If your position is, “I would much rather have seen something for school lunch,” then do it; put it up. But do not discredit some other Counties' efforts because if you believe this is not important— I respect that; I really do because that is a lot of money, and you are right, there are a lot of priorities here. I have the benefit and luxury of sitting through the presentation, so it is probably not fair for all of you who were not provided that. Again, come see me before the meeting, so I can get you the necessary information. I can get you the PowerPoint. We can get that through Ashley. We all know that. That is accessible to everyone. It is not a secret meeting. That is fine. I am not going to lose sleep if this does not pass. The TAT passed, so I am happy and I can move on. We can fail all the other ones and it would not bother me. This is the result of works and efforts from other Counties that really believe this is a statewide effort.

Council Chair Furfaro: My earlier comment— perhaps my approach is one where in my travel budget, and everybody has a travel budget, I go to at least four (4) HSAC meetings a year. For this particular one, I was there because all of the proposals were out; seven (7) or eight (8) pages. I gave testimony. I think I talked about this “return on investment” as being something new because I am trying to recognize JoAnn and Gary saying that not everybody sees their ability to

be that involved and it would help if we do have something that talks in terms of the money pieces and the return on the investment. All of us do have an opportunity to attend HSAC meetings and I think you do a very good job as President, so thank you.

Councilmember Rapozo: Thank you, Mr. Chair. I will make sure that the minutes and attachments are provided to all Councilmembers going forward.

The motion to approve A Bill for an Act Relating to the Pacific International Space Center for Exploration Studies (Proposed by the County of Hawai'i) was then put, and carried by a vote of 5:2:0 (*Councilmember Hooser and Councilmember Yukimura voted no*).

3. A Bill for an Act Relating to the Hawai'i Health Systems Corporation Primary Care Training Program (Proposed by the County of Hawai'i)

Councilmember Kagawa moved to approve A Bill for an Act Relating to the Hawai'i Health Systems Corporation Primary Care Training Program (Proposed by the County of Hawai'i), seconded by Councilmember Yukimura.

Councilmember Rapozo: Is there any discussion?

Councilmember Yukimura: Yes. I am going to vote for this one because it does appear— well, first of all, our Hawai'i Healthcare Systems is so critical statewide. We know firsthand how important the Veteran's Hospital and Mahelona Hospital are to our people here. I think this Bill tries to address a very big problem of not having enough healthcare doctors, and apparently, we will try to ease the shortage by training physicians and matching them to critical rural areas without those services. It seems like a very worthwhile and critical program for all Counties.

Councilmember Rapozo: Mr. Chock.

Councilmember Chock: I am also supportive of it. Particularly on Kaua'i, I think that we have seen a shortage of doctors and needs. We do not retain them. Many of them are leaving, so this kind of support, I think, is well warranted. Thank you.

Councilmember Rapozo: Mr. Hooser.

Councilmember Hooser: I will also be supporting this. This deals with the core function of health and I think this is where we should put our focus right now and not expanding new programs. This is a big issue, as was stated earlier, and this is a significant effort to support rural health care in particular and Kaua'i will have a direct benefit. Thank you.

Councilmember Rapozo: Mr. Bynum.

Councilmember Bynum: I will be in total support of this as well for the reasons stated. I just want to add additional comment that since I have been involved in this, it seems like every couple of years, there is a crisis with our Hawai'i healthcare system and rural healthcare and the Legislature can come in and save us. I want to hear a solid, strong commitment from the Legislature that these facilities will remain intact and that they have a plan to make it viable or clearly see what the costs are, instead of creating crises and threatening jobs every couple of years, it seems.

Councilmember Hooser: Thank you. Anyone else? Mr. Chair.

Council Chair Furfaro: I think I have been pretty close to this and I have to share with you, and I have actually been to a couple of the rallies for this on Hawai'i Island and Hilo Medical Center. There is a real need to pay attention to the role between the University of Hawai'i at Mānoa and their medical school and the recruitment and retention of local doctors. There are many, many doctors that are—I just saw a statistic that indicated almost twelve percent (12%) of the—only to twelve percent (12%) of the Hawai'i applicants for medical school are actually going to the University of Hawai'i's medical facilities, and yet, they want to come home and participate in practicing their medicines in the rural areas. I think there is something that needs to be said here about encouragement of the educational opportunities at the State hospitals with programs that will retain more doctors here. Forty percent (40%) of the physicians on Hawai'i Island at Hilo Medical Center are actually on these contract rotations. They are traveling doctors. They are not cord or tied to the community long-term and that is really challenging and very revealing, so I will be supporting this. Thank you, Mr. Rapozo.

Councilmember Rapozo: Thank you, Mr. Chair. Anyone else? If not, I just want to share a statistic that was in the Hawai'i Island Resolution that the Hawai'i Physician Workforce Assessment Project reported to the 2014 Legislature that in 2013, the physician supply fell short of the demand: thirty-seven percent (37%) on Hawai'i Island; thirty-five percent (35%) on Kaua'i; twenty-seven percent (27%) on Maui; and fifteen percent (15%) on O'ahu. This program really is a training program that although based out of the University of Hawai'i at Hilo and the University of Hawai'i at Mānoa, does really benefit statewide, including the pharmacy programs as well, which several Kaua'i students have already taken advantage of. I appreciate the support.

The motion to approve A Bill for an Act Relating to the Hawai'i Health Systems Corporation Primary Care Training Program (Proposed by the County of Hawai'i) was then put, and unanimously carried.

4. A Bill for an Act Relating to Abuse of Family or Household Member (Proposed by the County of Hawai'i)

Councilmember Bynum moved to approve A Bill for an Act Relating to Abuse of Family or Household Member (Proposed by the County of Hawai'i), seconded by Mr. Kagawa.

Councilmember Rapozo: Any discussion? Councilmember Kagawa.

Councilmember Kagawa: I read through this item and it really makes a lot of sense that, I guess, this came up because of a real-life situation or situations where twenty-four (24) hours was not enough time for the victim to go and get a restraining order, etcetera. Again, just using a real-life situation, this request was made and we would not want to see a situation come in the future where we did not push for this kind of measure, and then we see the results happen otherwise, so I will be strongly supporting this.

Councilmember Rapozo: Mr. Bynum.

Councilmember Bynum: I will also be strongly supporting this as someone who spent most of my career working with domestic violence and other

issues. This clarifies a situation that arises all of the time, so I am surprised that we have not done this sooner. Thank you.

Councilmember Rapozo: Mr. Hooser.

Councilmember Hooser: I am happy to support this, but it is unfortunate that we have to deal with this issue of family abuse and domestic abuse. It has been in the news a lot; national news, as well as local, Hawai'i news, and the emphasis on bullying in schools and abuse like this is really at the forefront in terms of discussion with the community. It is appropriate that this issue is in front of us and I am pleased to offer my full support. Thank you.

The motion to approve A Bill for an Act Relating to Abuse of Family or Household Member (Proposed by the County of Hawai'i) was then put, and unanimously carried.

5. A Bill for an Act Relating to Evidence (Proposed by the County of Kaua'i)

Councilmember Kagawa moved to approve A Bill for an Act Relating to Evidence (Proposed by the County of Kaua'i), seconded by Councilmember Yukimura.

Councilmember Rapozo: Discussion? Mr. Bynum.

Councilmember Bynum: Given previous discussion that this is a different circumstance, I am not going to be supportive of this. It is about changing Rules of Evidence in a way that was opposed by the Hawai'i State Supreme Court Rules of Evidence Committee and it has a much more significant, potential problem. Enough said.

Councilmember Rapozo: Anyone else? Mr. Hooser.

Councilmember Hooser: Along the same lines, Chair, we had this on our agenda before and we had the discussion, right? Was that for our package?

Councilmember Rapozo: It was to get it to the HSAC Package.

Councilmember Hooser: Okay.

Councilmember Rapozo: Yes, it is kind of redundant, but we pass our stuff, send it to HSAC, and then whatever survives HSAC comes back and this is the final package.

Councilmember Hooser: Okay. I share the same concerns as Councilmember Bynum and will be voting in opposition.

Councilmember Rapozo: Anyone else? My concern is for a different reason. My concern is that number one: there are not many property crimes that actually go to trial. I do not know if you keep track of that, but very few property crimes actually make it to trial. Our system and our facilities are not setup for these types of teleconferences. What the Bill tries to do basically says that "non-resident victims in felony property cases," so those are the tourists that came here and they got victimized, whether their car got broken into, and really a felony— anything over three hundred dollars (\$300) of value is a felony. Let us say their camera got stolen or whatever it was, and then they go back— currently, we have to fly the people back to testify. The purpose of this Bill in non-violent,



property crime and felony property cases, that they would be able to allow the witness, the non-resident, to be given via video. They could only testify on four (4) items: identification and ownership of the property taken; the value; lack of consent to take the property, meaning that they did not give the perpetrator permission to steal it; and identification of the person or persons who took the property, if that is applicable. They will be subject to cross-examination. The only difference is that they would be testifying from the mainland and not here or from another Country for that matter, basically to cut costs and not bring the victim all the way back here to go through a trial and have to deal with that. I think the intent of this is very good and I support that. My concern is what the ramifications are— and this is actually introduced by Chair Furfaro, thank you, Mr. Chair. What are the fiscal ramifications? Do we now have to go and outfit the Court system throughout the State for how many trials do we do a year? Most of these cases, as I said, are either pled guilty or rarely go to full blown trial. That is the dilemma I am in right now and I am really curious to have the discussion here. Anyone else? Mr. Bynum.

Councilmember Bynum: I think it is a wonderful discussion because the intent is cool and ninety-nine percent (99%) of the time, it would be fine. I know a lot about this issue because I lobbied for a carved out exception to this for child sexual abuse. When the victim needs to be cross-examined, they are allowed under our laws to do that via video, but they are in the same jurisdiction and they might be in the same building and it is about the victim and their trauma. We have basic fundamental rights in this country, civil rights, that we do not want to chip away even a little bit. We have a system that allows people to— we let three (3) or four (4) guilty people go and we are all frustrated about that and we do that to make sure that the “not guilty” person does not spend time in jail, right? This is about our right, when somebody says, “You wronged me,” to confront our accusers, and “confront” means face-to-face when you are adults. Imagine they are going to identify through video, “Yes, it was that local guy who stole my stuff,” from Michigan and the local guy does not get to look him in the eyes and he is getting sent to prison. It just seems like a slippery slope, but the intent is wonderful. Of course, the problem identified is real. Tourists do not want to fly back here to testify live in Court, but then we have this little civil liberties thing here and it is like, “Wait a minute. Could this erode our civil liberties?” Yes, maybe just a little bit. That is my rationale. I struggle with it, too, Mel, on both sides.

Councilmember Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: There is the protection that the defendant’s counsel will be able to cross-examine. There is the possibility that without this, the crime will not be prosecuted and because the victim does not want to go through all of the trouble of coming back, leaving their job, or whatever it takes, even though his or her way is paid, so that means that visitors are more vulnerable to crime because there is less likelihood that the perpetrator will be successfully prosecuted. I think this is limited enough, so that we should allow it. If any real big problems come up, I presume it will be brought to our attention. I think on a very narrow exception to the rule, which the rule being that usually you have to have the witness present, I think this is worth a try.

Councilmember Rapozo:

Thank you. Councilmember Kagawa.

Councilmember Kagawa: Thank you. I will be supporting this item mainly because the tourist industry is our “bread and butter” and I thank Chair Furfaro for putting this on. I think a big turnoff occurs when crimes are committed against our visitors. As we talk in community, a lot of times, the public is frustrated that there are these reoccurring offenders that are out there committing

the same crimes. They are not only harming one (1) visitor or one (1) family; it is the same people doing it over and over again, and it is because our Court system does not have the means to really put a strong consequence against their crimes. If this helps, I would say that I am all for it because we have to protect our bread and butter and this is one way that perhaps could maybe improve that situation. Thank you, Chair.

Councilmember Rapozo: Mr. Hooser.

Councilmember Hooser: I think this is a slippery slope, a very slippery slope. It begs a lot of questions of why should visitors be treated differently than local residents? Why should Kaua'i people have to fly to Honolulu to testify? Why does somebody from the north shore have to drive to Lihue? Why can we not all do it by video? Why not treat all people the same? I think it is a very slippery slope. All of a sudden, it is expanded. Now it is narrow, and then it is expanded. It is my understanding, and correct me if I am wrong, but the Hawai'i Supreme Court Rules of Evidence Committee, the Committee that serves the Hawai'i Supreme Court recommended against this measure. I have very strong concerns about this. Yes, if there are problems, we will probably find out about it... hopefully. When we make mistakes like this and when there are problems like this and these innocent people got to jail—again, I think this is a slippery slope. It is well-intended that let us protect our visitors and protect our number one industry, but I think it is a very slippery slope and I am not able to support it. Thank you.

Councilmember Rapozo: Anyone else? If not, I will just say that often times—and I know this from personal experiences that when you get a criminal or a victim that is from out-of-state and they may have stolen who knows... fifteen thousand dollars (\$15,000) worth of stuff could be from a burglary, from a hotel or vacation rental, or their vehicle; then they go back home. On the other spectrum, somebody gets three hundred ten dollar (\$310) value item stolen, which is a felony, and they go back to the mainland—the defense attorney knows this and the defense attorney knows that the State is going to have to spend all this money. It encourages the plea bargaining process, so this felon who is a felon who broke into somebody's home or broke into someone's car will be allowed the opportunity to get a conviction, who will convict him on a misdemeanor. He will plead to the misdemeanor, but he will not plead to the felony. That is disturbing to me because if you cause a felony and steal the tourist's item, you need to be accountable for that. The fact that everybody has a right to face their accuser—and I agree with that; that is a constitutional right—they still will face their accuser. It will be as if there is a plastic or glass barrier because the only thing that cannot happen is that the guy cannot go across and punch out the witness on the stand, not that he could anyway, but he still gets to see the victim. It is just on the television, which is no different than live behind the glass. For me, I do not think that is as big a problem. I think that once—again, if you look at the Bill, it just gives the Court the ability to order that. Whether or not the judge agrees if the circumstances are—I think in the cases that bringing the victim here will determine whether or not the case goes to trial or not, we are losing cases like that because they cannot come because the family is sick or work, or whatever the case may be. This will eliminate that and everybody will potentially be responsible or be required to face the music. I will be supporting this simply because I think it just enhances the criminal justice process and that it, in fact, will allow many cases that otherwise would not go to trial and victims would never be compensated or get closure, I think this Bill will provide that, so that everybody can be held accountable.

The motion to approve A Bill for an Act Relating to Evidence (Proposed by the County of Kaua'i) was then put, and carried by a vote of 5\*:2:0

*(Councilmember Bynum and Councilmember Hooser voted no; \*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kauaʻi, Councilmember Kagawa was noted as silent but shall be recorded as an affirmative for the motion.)*

6. A Bill for an Act Relating to Zoning (Proposed by the County of Kauaʻi)

Councilmember Yukimura moved to approve A Bill for an Act Relating to Zoning (Proposed by the County of Kauaʻi), seconded by Councilmember Chock.

Councilmember Rapozo: Discussion? I think this was a Kauaʻi proposal that has already passed this body once, so I do not anticipate it not passing. Is there anyone in the audience wishing to testify? This allows for the amortization for single-family residences. Right now in our current law for zoning, we cannot amortize. In other words, if you have a vacation rental— we went through this whole fiasco years ago where you cannot setup your Nonconforming Use Certificate. Basically, you have a certificate and your single-family residence... this body would not be able to say that the certificate is good until the property is sold. You could not do that. This one now allows the County to say, “Hey, your permit goes with the owner and when you sell, so does the authority.” That is a way to clean up the neighborhood, so that we do not have these constant— we tried to do this originally and was properly ruled by the County Attorney that we could not do it because of the State law, so this is what this does.

The motion to approve A Bill for an Act Relating to Zoning (Proposed by the County of Kauaʻi) was then put, and unanimously carried.

Council Chair Furfaro: Mr. Rapozo, on that note, even though we have a black screen, we do have somebody typing, so we do need to take a caption break. I would like to take the caption break before we go to the next section. I also have an excuse note that I am leaving at 12:00 p.m. to attend the Pono Kai Association annual meeting about the breakwater. Mr. Chock, after Mr. Rapozo is done, you will have the meeting. If everybody is okay with it, we will take a caption break right now. Thank you.

There being no objections, the meeting recessed at 11:51 a.m.

The meeting reconvened at 12:03 p.m., and proceeded as follows:

*(Council Chair Furfaro was noted as excused.)*

Councilmember Rapozo: The meeting is called back to order. We are moving on to the 2015 HSAC Legislative Priorities. I would entertain a motion to take these at seriatim.

Councilmember Yukimura: I have a question first.

Councilmember Rapozo: Sure.

Councilmember Yukimura: What does it mean to have “Legislative Priorities” with no Bill attached, so we are not even sure what HSAC’s position is on the issue?

Councilmember Rapozo: Right now, most of the state association— this was discussion at our National Conference that a lot of the state associations

now come up with priorities that allow the state association and its members, which are really all of us, to support certain areas. There is no specific bill at this moment. You know how the Legislature works. You have thousands of bills every session. We are trying to come up with a priority list that are of importance to HSAC that, in fact, HSAC would participate in supporting or not supporting should the need arise.

Councilmember Yukimura: Last year, the Executive Committee, which I presume is going to make decisions during the Legislature, took positions that I totally disagreed with, so I do not feel confident in even setting up a set of priorities without knowing what our positions are on those issues because it will allow HSAC to take a position that has not been fully vetted through our regular process and it could be contrary theoretically to the majority of Councilmembers.

Councilmember Rapozo: Well, it would be vetted out at an HSAC meeting, which you have every right to attend.

Councilmember Yukimura: HSAC Executive Committee Meeting, right?

Councilmember Rapozo: Yes.

Councilmember Yukimura: Not a meeting of all of the members?

Councilmember Rapozo: No, a meeting of all of HSAC, which is a representative from each County. So anyone would have an opportunity to come up and testify. It would be posted on the agenda and we would have that discussion. At that point, HSAC would make a determination.

Councilmember Yukimura: I think we should say HSAC Executive Committee because that is not the same thing as HSAC. I think there is a really major process issue here. If we did it at our annual meetings where all Councilmembers were present, there could be full discussion and we could actually take positions that represent the positions of Councilmembers statewide. I would be okay, but where an executive committee—these are four (4) members out of what? We have seven (7) here. It would be twenty-eight (28) if there were only seven (7). So out of forty (40) members, four (4) members are making decisions and there is no guidance for the decision based on positions that we have established through a process. I cannot support that.

Councilmember Rapozo: Okay. Anyone else? Mr. Chock.

Councilmember Chock: I just have a question. It sounds like what we are talking about is changing the rules and I do not know if that is a different item. Just to restate what is legally binding right now, and if there is a request to move in a different direction, then maybe that is something else that we need to consider in the future.

Councilmember Rapozo: Right now, the bylaws prohibit any changes to the package unless it is revenue generation or home rule. Again, this was City and County of Honolulu—Stanley Chang proposed this and he created this huge policy for “Legislative Priorities,” like I said, which many of the state associations are moving towards to let the Legislature know that the County Councils have these certain priorities and that was the intent. Mr. Bynum.

Councilmember Bynum: I just want to understand this better, Mel. When we vote here, we are voting to say “yes” as a priority, straight up or down, yes

or no? Are we voting for an order? The TAT would be number one as far as order. That will get my vote. For the retail sales tax, is there a legislative proposal related to retail sales tax?

Councilmember Rapozo: None at all. These are priorities that... I stand corrected. It says "Proposed by County of Maui" because Stanley Chang left HSAC, so I guess Maui picked up the recommendation or the proposal. It is actually proposed by Maui, but it is the brainchild of the City and County of Honolulu.

Councilmember Bynum: Is this saying that this should be our order of priority?

Councilmember Rapozo: No, it is not in order.

Councilmember Bynum: It is just "is it a priority or not" and "should it be on the list?" Would this be subject to change under those bylaws changes that happened last year that if it was home rule or revenue, they could change this priority list?

Councilmember Rapozo: That was not a bylaw change; that has always been in the bylaws.

Councilmember Bynum: Well, that is not on the agenda, so I will not go there.

Councilmember Rapozo: That has always been in the bylaw and that has always been pretty prohibited for the Counties. If something shows up in the middle of the session and it does not involve home rule or revenue enhancement or generation for the Counties, then HSAC is not allowed to participate.

Councilmember Bynum: Right. I will not belabor it. You are helping me understand this better, but I do want to make a comment. What Mel is saying is correct. I go to HSAC meetings. We have the burden and the blessing of having administered HSAC; our Staff, now Ashley and previously Cyndi Ayonon. If you want to know what is going on at HSAC, it is as easy as walking over to Ashley's office and talking story or to Mel's office and talking story. When HSAC has taken positions like this, I went to the meetings and testified against the positions. I think it has been a process that has— Mel's leadership there has been outstanding and I rely a lot of him and he has always been straight with me about information, even when we disagree. Having said all of that, I understand this now. I do believe that Mike Victorino and the Executive Committee at the last push through a bylaw change, which gives that Executive Committee way too much latitude to change the process during the Legislative Session, but we do not know that they are going to exercise that, so we will have to wait and see. Thank you for your answers, Mel. I am ready to proceed with this.

Councilmember Rapozo: Councilmember Hooser.

Councilmember Hooser: Some of the items are really easy. For the Transient Accommodation Tax, we have already voted on a specific legislative item on that, so I do not have a problem making that a priority. It is already in my opinion. For others, the "devil is in the details." A retail sales tax may be fine if it was only applied to hotels or certain things, but if it is applied to food, rents, or other things like that, then I cannot support it and I hate to, as a Councilmember, vote to say, "Yes, we are going to make this a priority," and then others go to the

Legislature and say, "This is our priority," and end up passing a law that I do not support. Open government is another. I know that there are many Councilmembers who want to change the Sunshine Law to make it where it is less restrictive, but this does not say less or more restrictive, so I have a difficult time saying "yes" that I want to make this a priority unless I knew the direction... ideally, the specific direction that is being advocated for. Thank you.

Councilmember Rapozo: Thank you. Councilmember Kagawa.

Councilmember Kagawa: I think where we are at, if you can count, we can see that GE tax or the retail sales tax is not going to pass here today, so I prefer if we do not "kill the dead horse" and maybe vote for the TAT and any others that are obvious that we support. If not, let us just scrap the whole idea of having legislative priorities regarding funding because we all know that the Transient Accommodations Tax is our main priority for all Counties and let us just focus on one. I am not sure what the body wants to do.

Councilmember Rapozo: Mr. Chock.

Councilmember Chock: I think priorities are great and to be able to spend the time to get to priorities is beneficial. Obviously, this body is not fully prepared to move on all of these, so I just have a process question in terms of moving forward. I know we always feel like we are rushed in trying to make a decision on these things, but what is the timing on this, Councilmember Rapozo, in terms of needing to come to a decision?

Councilmember Rapozo: Today.

Councilmember Chock: I thought it was last week actually. I think that helps to validate where we are right now. Thank you.

Councilmember Rapozo: Councilmember Yukimura.

Councilmember Yukimura: So if we approve any of these that are proposed as priorities, does that come under the category that would allow the Executive Committee to make decisions on them during the legislative session?

Councilmember Rapozo: The bylaws still require those two (2) requirements. In other rules, home rule or bills that affect County revenue from the State. Those are the only two (2) issues that could be added onto the package once the session starts.

Councilmember Yukimura: And of this priorities list, which are covered by those two (2) areas?

Councilmember Rapozo: Right.

Councilmember Yukimura: Which ones?

Councilmember Rapozo: Well, the TAT, Retail Sales Tax, and General Excise Tax. That is pretty much it. It is very hard to tell because there could be a bill within Transportation that affects home rule. It is very hard to tell. Believe me— maybe this will help make your guys decision. I voted for this at HSAC, so that we could have the discussion here. I am uncomfortable with this as well because it is very broad. I appreciate the comments and I kind of expected those comments. I would just say that our actions should be on whole thing. If we think

that priorities should be done in a more collaborative way... maybe at the general membership meeting or annual meeting, then that is a good idea. I will definitely not oppose that. I do not want go through the individual items because I would not be able to answer you because I do not what the Legislature will do this year. Out of the two thousand five hundred (2,500) or three thousand (3,000) bills, who knows? Councilmember Yukimura.

Councilmember Yukimura: Priorities, to me, are meaningless unless there is a clear position tied to it because otherwise, it could be totally contradictory to what we intend when we vote for it to be our priority.

Councilmember Rapozo: That is fair.

Councilmember Yukimura: I agree with maybe not doing any "Legislative Priorities." TAT is already covered in our package.

Councilmember Rapozo: Mr. Bynum.

Councilmember Bynum: So would a motion that Kaua'i not establish "Legislative Priorities" be in order?

Councilmember Rapozo: Yes, HSAC.

Councilmember Bynum moved that the County of Kaua'i not take a position on Legislative Priorities, seconded by Councilmember Kagawa.

Councilmember Rapozo: Any further discussion? Any comments from the public?

There being no objections, the rules were suspended.

Ms. Punohu: Anne Punohu. I have been quietly listening to the discussion and think there is a huge element missing from the overall discussion at the table, and that is "us." This the first time that I, as a member of the general public, have ever heard any of this and I just heard from Mel today that the decisions need to be made today. These are very complex issues, issues that the general public should have the opportunity to mull over and decide how we feel and what we want you guys to say as our priorities. I know HSAC happens every year, but I do not know if this occurs every year or I do not know what process needs to change; however, from listening to this, this is really the first time that I have been at a Council Meeting that I have actually listened so intently or really paid attention. When you start bringing up issues of home rule— home rule is one our biggest issues this year and if you are saying that is something that can be added on, I, as a member of the general public, want home rule addressed, especially for the island of Kaua'i because it is such a priority for us. As far as "back scratching," ROIs, or any of that, my question to you is did we have projects on Kaua'i that we brought to HSAC that were supported by other Counties, and in turn, did we support them? If we are looking at concrete, I am a little confused. I think the general public should know more about some of these individual items. As far as the evidence goes, I would say that we should not be submitting anything that will not pass the Supreme Court since we have already recently had an event with that as it stands. On the other issues, some of them are "no-brainers," but there are things in there that people like myself would like to see as a priority for the State Legislature that is nowhere mentioned here, such as education and air conditioners for the classrooms, in every single classroom, in this entire State for our children because they sweltered and past our during our recent heatwave. To me, as a

person who lives in this State, that is a priority for me in the Legislature. As far as funding our hospitals, that is a priority for me in State Legislature. It seems like the people are being cut out of the process. You guys are privy. I heard your discussions how you went to HSAC meetings, but we do not get to go to an HSAC meeting. I feel that we were not informed enough to testify intelligently, make sense, and give a robust, educated opinion on the issues that will affect our lives the most. You are our legislators and we trust you. Mel, I trust you. Of course, I trust you guys because we voted you in, but you cannot leave us out of the core discussion. I guess that is my general comment and my general asking is, is this the way it has been done, and if there needs to be a change in policy, it is too late to do that right now.

Mr. Sato: Three (3) minutes.

Ms. Punohu: But I would ask the in the future...

Councilmember Rapozo: Hang on. Is there anyone else wishing to testify? If not, you can have your second three (3) minutes, Anne.

Ms. Punohu: I just wanted to say that in the future, maybe you could look at how the information is disseminated to the public before a decision must be made here at the Council for how we feel about the priorities for the next legislative session. That is all I have to say. Thank you.

Councilmember Rapozo: Mr. Bynum.

Councilmember Bynum: Anne, you asked a good question and I think we all agree that for this Legislative Priorities section, we have not had enough vetting. I want to say for the rest of this agenda that Mr. Rapozo has been managing this with our Staff for years. We are at the end of a process where these items have been on the Council agenda more than once, so the public has had ample opportunity; perhaps not with this last piece, so I think we might agree with you on that. For the rest of this, we are following the time schedule that we have to in order to make decisions in a timely manner, and these items have been before the Council for public input previously. Am I correct, Mr. Rapozo?

Ms. Punohu: Can I comment on that real quick? Like I said, the priorities and some of these other items on here do not match with the average citizen in Hawai'i's priority. That is my main complaint about this entire thing that is before us here today. That is my last comment.

Councilmember Bynum: Thank you for your testimony.

Councilmember Rapozo: Thank you. Anyone else? If not, I will call the meeting back to order. The "Legislative Priorities" list is the first time everyone has seen this today. They saw this on the agenda from last week, but this is the first time it has been brought up here because this was not proposed by Kaua'i. The way it works is that all of the Counties make their own proposals to the individual Councils and whatever passes that goes to HSAC, and then the HSAC Executive Committee— basically, we approve it and it comes back here as the final package. In this case, the priorities were added on. I think you will see in the vote what happens when you drop something like this on a County Council. I feel it.

There being no objections, the meeting was called back to order, and proceeded as follows:



Councilmember Yukimura: So would the appropriate motion then be to receive?

Councilmember Rapozo: Yes. I misspoke to Mr. Bynum. That should be the appropriate motion.

Councilmember Bynum withdrew his motion that the County of Kaua'i not take a position on Legislative Priorities, and Mr. Kagawa withdrew his second.

Councilmember Bynum moved to receive the 2015 HSAC Legislative Priorities for the record, seconded by Councilmember Kagawa.

Councilmember Rapozo: Okay. Any further discussion? Mr. Hooser.

Councilmember Hooser: Just real briefly, the earlier motion is kind of counterintuitive that we do not support setting priorities and that is absolutely not the case for myself. I think we need to have priorities; however, this is too simplistic. Transportation— if it said “supporting increased funding for the Counties for public transportation that serves...”— if it had a paragraph or two about putting some parameters around the priority, then it would be much easier to support, but I think we all support setting priorities. It is just that this is not ready for approval today. Thank you, Chair.

The motion to receive the 2015 HSAC Legislative Priorities for the record was then put, and carried by a vote of 6:0:1 (*Council Chair Furfaro is noted as excused.*)

Councilmember Rapozo: Thank you.

Councilmember Chock: Can we go to the next item? Actually, I am going to ask that we take the longer item of C 2014-264 for after lunch. We believe that item might have a little longer discussion, so if we can clean up some items on the agenda and move onto the claim. Thank you.

There being no objections, C 2014-265 was taken out of the order.

CLAIM:

C 2014-265 Communication (09/30/2014) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Alfred Aragona, for damage to personal property, pursuant to Section 23.06, Charter of the County of Kaua'i: Councilmember Kagawa moved to refer C 2014-265 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Councilmember Yukimura, and carried by a vote of 6:0:1 (*Council Chair Furfaro was excused*).

Councilmember Chock: Can we go to Committee Reports next?

There being no objections, the Committee Reports were taken out of the order.

COMMITTEE REPORTS:PLANNING COMMITTEE:

A report (No. CR-PL 2014-08) submitted by the Planning Committee, recommending that the following be Received for the Record:

“PL 2014-03 Communication (09/11/2014) from Councilmember Bynum, requesting the presence of Special Counsel David J. Minkin, to provide a briefing on the recent Hawai‘i State Supreme Court’s decision in Kaua‘i Springs, Inc. vs. County of Kaua‘i, et al. and Kaua‘i Springs, Inc. vs. Planning Commission of the County of Kaua‘i, including the cases’ application and relevance to Hawai‘i’s Public Trust Doctrine,”

Councilmember Bynum moved for approval of the report, seconded by Councilmember Yukimura, and carried by a vote of 6:0:1 (*Council Chair Furfaro was excused*).

ENVIRONMENTAL SERVICES / PUBLIC SAFETY / COMMUNITY ASSISTANCE COMMITTEE:

A report (No. CR-EPC 2014-07) submitted by the Environmental Services / Public Safety / Community Assistance Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2551 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 21, SECTIONS 21-1.3 AND 21-9.1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO INTEGRATED SOLID WASTE MANAGEMENT TO ESTABLISH VARIABLE RATES FOR THE COLLECTION OF RESIDENTIAL AND COMMERCIAL REFUSE (PAY AS YOU THROW),”

Councilmember Yukimura moved for approval of the report, seconded by Councilmember Rapozo.

Councilmember Chock: I will suspend the rules seeing that we do have someone who wants to testify. Please come up.

There being no objections, the rules were suspended.

Ms. Punohu: Aloha. Anne Punohu. This is one of the reasons why I came today. My main concern with anything like this is that it not impact low-income, public housing or elderly residence, unduly and unburdening. Not everybody has a vehicle and not everybody can comply. Anything that would unduly burden monetary... any of those parts that (inaudible) people in our population. It would not behoove and I would oppose it.

Councilmember Chock: Thank you. You have a question here from Councilmember Yukimura.

Councilmember Yukimura: Maybe you can educate us, but how does it happen at the low-income housing places?

Ms. Punohu: Low-income housing, we get assessed for our own bills and right now we have curbside recycling. We have one (1) can that is provided for free from the County, but I can say that we all across the board, in our

particular housing, got a fifty dollar (\$50) increase, regardless of how much any of us have. We just had all of our rents raised across the board. There is no way that public housing residents can afford to be assessed at any garbage fees.

Councilmember Yukimura: The assessment comes from the Housing Agency, so...

Ms. Punohu: The State is not going to do that though because we pay our own bills.

Councilmember Yukimura: So the garbage pickup is by...

Ms. Punohu: Right now, it is free. We do not get assessed.

Councilmember Yukimura: Okay, so does the County trucks come and pick up from your area?

Ms. Punohu: Yes, we get an assigned garbage can from the County. They place it there and it is registered. In our particular housing, they come on Tuesday and it is an automatic pickup. It is not manual pickup.

Councilmember Yukimura: Okay. Maybe we can ask Staff how we are charging those housing complexes. We can find out because I am not clear yet. Apparently, you do not pay Real Property Taxes, which is what the Bill is appended to.

Ms. Punohu: But what I am wondering if there is going to come a point in time... because before we did not pay for electricity and now we pay for electricity. Currently, we do not pay for water, but there may come a time where we will be assessed for water. The State decides— like I said, we just got an increase because we lost our utility allowance, so we are not being assessed an additional fifty dollars (\$50) across the board. We do get charged. I am just asking because I have no idea how it would pertain to this Bill, but I am not just asking for public housing residents either. I am asking about our *kūpuna* and about people...

Councilmember Chock: Okay. I do not want to get too far off of the topic and the question. I think we have an action to move forward on it, so...

Councilmember Yukimura: To follow-up on it, yes.

Ms. Punohu: Okay. Thank you.

Councilmember Yukimura: Thank you.

Councilmember Chock: *Mahalo*. Would anyone else like to testify on this item? If not, I will call the meeting back to order and move on. Thank you.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and carried by a vote of 6:0:1 (*Council Chair Furfaro was excused*).

PUBLIC WORKS / PARKS & RECREATION COMMITTEE:

A report (No. CR-PWPR 2014-08) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Received for the Record:

“PWPR 2014-06 Communication (09/09/2014) from Councilmember Rapozo, requesting a briefing by the Department of Public Works, Engineering Division, on the National Flood Insurance Program (NFIP) to include:

- The role of the County’s Engineering Department in coordinating the NFIP;
- The concerns about inaccurate mapping of specific parcels; and
- The effects of insurance rates on homeowners,”

Councilmember Kagawa moved for approval of the report, seconded by Councilmember Yukimura, and carried by a vote of 6:0:1 (*Council Chair Furfaro was excused*).

A report (No. CR-PWPR 2014-09) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Received for the Record:

“C 2014-89 Communication (03/05/2014) from Council Chair Furfaro, requesting the presence of the County Engineer, to provide an update on the Ala Kalanikaumaka Street off-site drainage area and the efforts of the Department of Public Works to address the reported problems that occur following heavy rain,”

Councilmember Kagawa moved for approval of the report, seconded by Councilmember Yukimura, and carried by a vote of 6:0:1 (*Council Chair Furfaro was excused*).

FINANCE & ECONOMIC DEVELOPMENT (TOURISM / VISITOR INDUSTRY / SMALL BUSINESS DEVELOPMENT / SPORTS & RECREATION DEVELOPMENT / OTHER ECONOMIC DEVELOPMENT AREAS) COMMITTEE:

A report (No. CR-FED 2014-31) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2554 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Real Property Tax Relief for the 2014 Tax Year*),”

Councilmember Rapozo moved for approval of the report, seconded by Councilmember Yukimura, and carried by a vote of 6:0:1 (*Council Chair Furfaro was excused*).

A report (No. CR-FED 2014-32) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports &

Recreation Development / Other Economic Development Areas) Committee, recommending that the following be Received for the Record:

“Bill No. 2556 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Reinstating the Permanent Home Use Tax Limit*),”

Councilmember Rapozo moved for approval of the report, seconded by Councilmember Yukimura, and carried by a vote of 6:0:1 (*Council Chair Furfaro was excused*).

A report (No. CR-FED 2014-33) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2552 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2014-781, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2014 THROUGH JUNE 30, 2015 BY REVISING THE AMOUNTS ESTIMATED IN THE CRIMINAL ASSETS FORFEITURE FUND (*Kauai Police Department, Exercise Equipment – \$70,000*),”

Councilmember Rapozo moved for approval of the report, seconded by Councilmember Yukimura, and carried by a vote of 6:0:1 (*Council Chair Furfaro was excused*).

A report (No. CR-FED 2014-34) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2555 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2014-781, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2014 THROUGH JUNE 30, 2015, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Real Property Tax Relief Funding – \$750,000*),”

Councilmember Rapozo moved for approval of the report, seconded by Councilmember Yukimura, and carried by a vote of 6:0:1 (*Council Chair Furfaro was excused*).

Councilmember Chock: It is at the hour of 12:30 p.m. right now, so I would like to take lunch if we can. I will recess for lunch and come back for our public hearing and continue with our Council business. Thank you.

There being no objections, the meeting recessed at 12:28 p.m.

The meeting reconvened at 1:36 p.m., and proceeded as follows:

(*Councilmember Hooser and Councilmember Kagawa are noted as not present.*)

Councilmember Chock: While we are waiting for a few more Councilmembers, I just want to state that we have Council Chair Furfaro, who has gone to a luncheon to do a presentation, is on his way back. Councilmember Hooser and Councilmember Kagawa are, I believe, in the building and will be here in just a minute. Also, I just wanted to let members and the public know that the video is still down and will be down for the rest of the day. With that, I believe we want two (2) of the Councilmembers here. Are you waiting for Gary to be a part of this? Is that what you want?

Councilmember Bynum: If they are in the building, then let us just start the meeting when they are here.

Councilmember Chock: Okay. I am going to call a recess for just a few minutes here, so that we can gather them. I would like to get started promptly if possible.

There being no objections, the meeting recessed at 1:37 p.m.

The meeting reconvened at 1:38 p.m., and proceeded as follows:

*(Councilmember Hooser is noted as present at 1:38 p.m.)*

Councilmember Chock: We will call this Council Meeting back to order. Mr. Clerk, can we please go to the next item?

#### COMMUNICATIONS:

C 2014-264 Communication (09/29/2014) from Councilmember Bynum, requesting the presence of Mona W. Clark, Deputy County Attorney, to provide the Council with an update on the Office of the County Attorney's investigation of certain properties receiving agricultural land dedication and their compliance to Ordinance No. 808 (Grading, Grubbing, and Stockpiling), specifically Tax Map Key Nos. (4) 3-3-018-002, (4) 3-8-004-001, and (4) 3-7-001-001.

Councilmember Chock: For the record, I know there was something that was circulated from the Office of the Mayor with a request to defer these two items. My understanding is that it is a very complex item, so that we expect that this is an ongoing item that we will be discussing here. With that, we would like to have a healthy discussion and have it introduced by Councilmember Bynum, who has spent so much time on this. We would like to entertain a motion and move towards your presentation.

Councilmember Bynum moved to receive C 2014-264 for the record, seconded by Councilmember Hooser.

Councilmember Chock: Thank you. You have the floor.

There being no objections, the rules were suspended.

Councilmember Bynum: This request is tied to the Resolution that is on the agenda to do a 3.17 Investigation, something that is not ever done lightly. So in discussion with Mona regarding this, her preference and mine is that I kind of set the stage and do a presentation that I have prepared for the Resolution, and then she will respond to questions and kind of complete that with her because she came in later into the process. I want to be clear that there are some really good things happening here, which is that the County Attorney's Office was assigned to

investigate this matter on the Council's behalf some time ago. The Mayor, at some point, when I wrote him a letter said, "I want to have our County Attorneys drill down on this," and we agreed to collaborate on that. I really want to acknowledge the County Attorney's Office and Nadine Nakamura for that. Mona's role in this is somewhat unique if that she is doing fact finding and she is presenting those facts to both the Administration and the Council, but she is not advising us on what we do with those facts and policy decisions beyond that. That would be other attorneys and I think that is a very positive thing and it has borne good fruit, I think, and I really wanted to acknowledge that. Having said that, I am ready to begin my presentation.

In the County of Kaua'i, we have a program. This investigation also is about both agricultural dedication and the tax issues, and about Ordinance No. 808 and the agricultural exemptions that are required by agricultural users to protect environment, health, soils and ground, and water. Because this is an ongoing discussion, and as the Chair has indicated is complex, I want to really strive to present it in a way that is really understandable to everyone. Ordinance No. 808—we will not get deep into that today because it is ongoing and we will not have time to do that. Having said that, on the agricultural dedication side, we have had a program in the County of Kaua'i for many, many years that has had unanimous and overwhelming support and continues to have support to incentivize agriculture. In simple terms, all land on Kaua'i is taxed on market value times the rate that is established by this Council, and that creates your tax bill. In agricultural dedication, we say, "No, if you dedicate this land exclusively to agricultural use for ten (10) to twenty (20) year period, then we will value—we will set that value of the land based on the product that is produced off of your agricultural activity and that results in a value that is much less than the market value, and currently is about eight million five hundred thousand dollars (\$8,500,000) of subsidies that other taxpayers on Kaua'i are willing to give to keep agriculture strong and viable in our community. As I have said, it has overwhelming support, but it is about money; it is about tax bills. It has to be done accurately and appropriately. Any of these agricultural dedications are recorded in the deed of the property and they become the first lien, should there be any need for collection of back taxes, and they are commitment by the landowner to keep their land in certain uses for a period of time that we can rely on. They have built into them penalties should the landowner not follow the rules or change their mind. Maybe eight (8) years into the dedication, they say, "No, I want to change the use and I am not going to be able to fulfill this contract," so there penalties for that and back taxes get calculated, but it requires landowners to keep very accurate—and the County—accurate records about how lands are being used because we are giving dedications to them.

With that, I have a PowerPoint and I am going to start with a timeline. I am going to try to do this as quickly as possible. In 2010, I was the Finance Chair and I saw that loss in the tax collections from the agricultural sector were greater than our losses. We were losing revenue in lots of sectors, greater and out of proportion for what seemed the other sections. In 2011, that loss had accelerated. In 2011, I started looking at agricultural dedicated parcels because I said, "If we are losing a lot of revenue here, but these parcels are kind of removed from the market taxes, falling market rates should not result in these kinds of losses." So I started looking at individual parcels on our wonderful County website that we have, just trying to get a sense of this because we are stewards of the County's finances.

In 2012, when I was reading the agricultural dedication law, which is very complicated and has been amended several times and has extensive Administrative Rules, I had learned that a lot of the new leases that were operating on Kaua'i were doing research with the land and were not producing a product. But the whole

agricultural dedication premise was, "We are not going to tax your land based on the market value, but based on the value of the product that you are producing." Our Administrative Rules say, "Show us your GE and tell us what this product's value is," and we did studies and we came up with two (2) categories: "pasture" and "diversified agriculture." So you have to dedicate your land and tell us what your use is. If it is pasture, you are going to be taxed at a lower rate than if it is diversified agriculture, where you are still going to be taxed at a lower rate, but much lower than if you paid market. In that, I started to say, "Well, is this appropriate for research use? Do we want to continue to give a tax benefit or a tax credit about changing this use to research?" But when I say I started those questions, I am talking with the Department of Finance, the County Attorney's Office, the Mayor, and other people because that is the way we do things around here. We just do not start with memos. We talk about it, conceptualize it, and learn.

In early 2013, I started inquiries into the history and process, so now I got more formal because I am contemplating writing a bill. I had meetings with the County Attorney. I said I knew that this bill was taxes and it was complex. I worked with Jennifer Winn before and our Council Staff met with the County Attorney Staff and said, "Let us collaborate and work together at crafting this bill, so that it is done properly." It was all out there that I am looking at agricultural dedications and I am looking at doing it differently. I requested assistance from the County Attorney in crafting the Agricultural Dedication Bill.

In September 2013, now I am going to do this, and I sent a memo— I am not going to show all of these memos because we would be here for hours, but I gave a memo that said to the Finance Department, "Tell us where we are getting tax benefits. Show me the agricultural dedication program and tell me who is getting dedicated lands for what purpose on which Tax Map Keys (TMKs) and what is the financial impact to the County?" The response I got back was, "We do not know. We do not collect the data that way. We cannot give you an overview." I thought that was pretty unacceptable that here we are, this is dedicated and recorded in the deed, and it is part of our tax bills, and you cannot give me, as a policymaker, an idea of who is doing what, where with which lands that result in eight million five hundred thousand dollars (\$8,500,000) worth? We agreed that they said— "Because we keep it all in paper files... it is all paper. We never calculated the data." I have talked to her many times about how serious that problem is in our County. So we agreed. I said, "How about I just pick three (3) and you just give me all of the paper; get the files, scan it, send it over to Council Services, and we will sort it out." That should take about one (1) day, right? Well, for months, back and forth memos, I got some documents, and then I got more. Then I got some— I will not go through all the details, but on December 3, 2013— if you can see, this is really bold because this is a landmark day to me and in my career because on that day, I got the second batch of documents... or maybe the third or fourth— but this batch of documents had brand new petitions for agricultural land on the parcels that were dated just a couple of days... the approvals were dated just a couple of days before I received these documents. Here I have been asking, "What is going on? There are missing documents. Where is the petition for this land? Where is this?" Apparently, the Administration was busy processing new petitions. In fact, they even sent me a memo that said, "We cannot answer this quickly because we are busy doing this other work." Then I received these documents and I immediately see huge problems because— I did not finish the punchline— brand new petitions dated in 2013, but the supporting documents are dated in 2008 and 2010. The new petition documents demonstrated overwhelmingly that the current petitions were in trouble; were in breach. These petitions should never have been accepted, in my opinion, because they had evidence that the current petitions were in breach. There should not have



even have been new petitions. They should have been petitions “for change of use” because the land was already in agricultural dedication. These documents just did not compute, so I immediately sent a memo that said, “There must be more. What documents have you not shared with me?” This is the day where I started saying, “Oh my goodness.” Up to this point, I am just researching a tax proposal that I may bring here. Now I am finding that...

*(Councilmember Kagawa is noted as present at 1:42 p.m.)*

Councilmember Chock: I just want to interject here for a second.

Councilmember Bynum: Yes?

Councilmember Chock: We are ten (10) minutes in. I know that you have a lot to cover and we have twenty (20) minutes scheduled for it. You may continue.

Councilmember Bynum: We have suspended the rules for this presentation. I have already said in writing that this item is probably going to take two (2) hours. My presentation will be longer than twenty (20) minutes. We have a long history at this Council of doing this type of presentation, and the rules are currently suspended. That twenty (20) minute rule is when we...

Councilmember Chock: Just help me out here because we have a lot of tax bills that we need to cover...

Councilmember Bynum: We are ten (10) minutes in and I said that this presentation will take forty-five (45) minutes to one (1) hour and Mona’s will take fifteen (15) to twenty (20) minutes. We are here to justify doing an investigation on a very complex issue, so I would like to proceed.

Councilmember Chock: Okay. If I can continue, just to bring us all into perspective of what we are trying to get to, we know that there is a lot of discussion that needs to continue. We can go as far as we can and we still need to get to some of the tax bills. We have to prioritize what we have to get done. Two (2) of us are leaving at 5:30 p.m. Can you try and get us to where we can, as far as we can?

Councilmember Bynum: Let me respond to that because I sent a memo to the Chair just before lunch that said that I thought this item would take a minimum of one (1) hour, probably two (2), but no more, and that would leave us two (2) hours for the tax bills before 5:00 p.m.

Councilmember Chock: Before you continue, I will entertain more process questions from Councilmembers. I will go to Councilmember Yukimura.

Councilmember Yukimura: I think we need a distinction of how much time the presentation will take versus how much time the dialogue and the possible County Attorney’s input is going to be. If the presentation itself will take twenty (20) to thirty (30) minutes...

Councilmember Rapozo: No, he said forty-five (45) minutes to one (1) hour.

Councilmember Yukimura: That is why I am asking whether it is the presentation itself or if it is the whole discussion.

Councilmember Bynum: What I have to present and what Mona has to present would take forty-five (45) minutes to one (1) hour.

Councilmember Yukimura: Okay, but Mona's does not count in our rules in terms of time for a presentation by a Councilmember. To me, we need some clarity from you, Councilmember Bynum, about how much your initial presentation, and then we go into questions. We are not trying to limit the subject discussion to twenty (20) minutes. We are trying to follow the rules that say a Councilmember's presentation is twenty (20) minutes. I do not mind going a little bit over, but I think forty-five (45) minutes to one (1) hour is long and I do not think you are asking for that for your part of the presentation.

Councilmember Chock: Okay. I am going to go to Councilmember Rapozo. We will have a short discussion on this, but we want to give due diligence to this subject, but be cognizant of the time we have.

Councilmember Rapozo: I think the bills are going to take a lot longer than two (2) hours, number one; no doubt about it. I also think that the importance of those tax bills require all members to be present. I just believe that. I appreciate what Mr. Bynum is trying to do, but if it is going to take that long, then this really should be in a Committee. Council Meetings are to take action. You are just talking about Mr. Bynum's part; he just said forty-five (45) minutes to one (1) hour. Then we got the public testify and all of us to speak. I think it is unrealistic to think that we can get this done and all the tax bills done. Just look at last week's Committee Meeting for the tax bills. There is no way we are going to get it done by the time we start losing members on the Council, so I want you as the Chair to take that into consideration that maybe this discussion should be moved to next week's Committee.

Councilmember Chock: Thank you, I appreciate it. Councilmember Hooser.

Councilmember Hooser: Councilmember Bynum has been working on this for a long time and I am working a little bit with him on it. The content of this subject matter deserves several hours and he has condensed it down to forty-five (45) minutes. This is a critically important issue. The Mayor has asked for a deferral and I suspect it will be deferred to a later date. It is on the agenda now. He has started. The rules are suspended. When the rules are suspended, the Chair has discretion to allow additional time. As a co-introducer or cosponsor, I have twenty (20) minutes and I would be happy to yield those twenty (20) minutes to Councilmember Bynum. This is important stuff. At this last Committee Meeting, I stayed and canceled the appointment I had to leave early. Five (5) were here at that meeting to vote on those bills and everybody knows what their position is. If they want to change it, they can state that, but we have important business to do and putting this off is not going to achieve our goal. I encourage the Chair and members to give the due consideration to Councilmember Bynum and let him complete his thoughts, so we can move on. Thank you.

Councilmember Chock: JoAnn?

Councilmember Yukimura: I asked Councilmember Bynum and he says his actual presentation will take thirty-five (35) minutes. If it is forty (40) minutes, it is still within the ambit, I think, of the presentation time.

Councilmember Chock: This is no disrespect, but I just wanted to manage this meeting properly, so that we can get through the work that needs to be done. Everything is important, if you can keep that in mind, Councilmember Bynum. As we move forward, I believe you have twenty (20) minutes left or so to complete this. We will try to stay on time, if possible, members. Thank you.

*(Councilmember Kagawa is noted as excused.)*

Councilmember Bynum: I have two (2) of them outlined, not the third. If I get through the first one and run out of time, maybe that is what we do. Now I have no signal. Okay. So December 3rd was a watershed moment because I received these documents and I discovered what I thought were serious issues. I also heard that perhaps there had been grading and grubbing happening on agricultural lands in the absence of an exemption from the Grading and Grubbing Ordinance, which seemed almost inconceivable to me because in 2003, this Council spent almost one (1) year... the major issue of the year, strengthening that Ordinance and making sure that it was properly applied in the future because it had not been in the past. I did a letter requesting conservation plans on the three (3) TMKs. A lot of these letters I was asking Finance, but I just did not get responses. When I asked Public Works, I got immediate responses, so I need to really acknowledge them for that. What I discovered was that there were no conservation plans on all three (3) of these parcels, but yet the documents indicated, and on my own observation and the people who testified observations here, was that operations changed in 2008, 2009, and 2010, but they got no conservation plans in 2011. It boggles the mind, but we will not get there today. So I got these documents and I am saying to them, "Hey, this cannot be all. Show me that there are more documents." It is like, "Please assure me that I have received everything that you have." To this day, they have not answered that question. This all led to a letter I sent to the Mayor on May 28, 2014. It is a really good letter. It holds up. I got a lot of help from our great Staff here to write it and it outlines the concerns that I discovered from this inquiry so far and the concerns are great enough that it is clear that a more independent and focused audit or investigation needs to occur. I asked the Mayor to assist us in that.

Now let us go to the Bill. I said it started with— where did I start? I have showed these many times. Between 2008 and 2011, taxes went down for many classes. They went down six million eight hundred thousand dollars (\$6,800,000) for agriculture without the homeowners. These are largely large landowners and others. We have lots of agricultural landowners, but we were getting less revenue. I am like, "Hey, what is going on?" This makes sense, but this does not because of the reasons I already stated. By 2012, it was nine million four hundred fifty thousand dollars (\$9,450,000). It is like, "Wait a minute. Something is wrong here." So I said I started to look at tax records. This is the tax history of the urban parcel that is one of these three (3) that we are focusing on right now. Right here behind Walmart, where we all know there was guinea grass growing there until 2008 when we started seeing the corn companies doing operations there and they put up dust screens. We know when it happened. We were there. What happened to their taxes? This was an urban parcel that had been rezoned and they were paying very serious taxes. This is where Grove Farm is still entitled to build a lot of mixed use development that eventually may be really— I thought one of the big news stories here was that Grove Farm made a ten (10) year commitment to not do anything other than agriculture on that land. But what is that result? Their taxes in 2009 were two hundred eighty thousand dollars (\$280,000) on this parcel and they went down to five thousand dollars (\$5,000). That is the difference between an urban parcel at market rate and an urban parcel on an agricultural rate. That is significant. Of those nine million dollars (\$9,000,000), seven hundred fifty thousand

dollars (\$750,000) was from this one (1) parcel. Let us stay at this agricultural dedication. This is a historic document in the County of Kaua'i. This is a notice of fulfillment of a dedication. After twenty-six and a half (26.5) years of sugar, we are ending our dedication. This is an emotional document signed by famous business people like Dottie Bekeart, and for the County of Kaua'i, Eugene Jimenez, people who served our community for a long time. Even before the plantation ended, we know how serious this is. Here is a Change of Use Petition; changing twenty-six point seven three (26.73) acres from bananas to pasture. They have to tell us that because it is taxes. Bananas get taxed a different rate than pasture, and we have to calculate the taxes, so it is not twenty-five (25) acres approximately; it is twenty-six point seven three (26.73) acres. Here is another one: when the plantation moved point five two (0.52) acres from sugar to pasture. This is the kind of counting you need on any land use change because you are calculating taxes. This was signed by Allan Smith in 1992. Remember, this is important because this gets recorded in the deed, and this is the deed history of this urban parcel over here. It will show you when it became urban, and tell you who has easements, or whether you have a new agricultural dedication. This one has a new agricultural dedication, petition number, and an effective date of January 1, 2010. That is when the taxes dropped over two hundred fifty thousand dollars (\$250,000) a year. I expected to see this document, but what I did not expect to see was this document that came in 2013. In 2013 comes a document where the finding is made that this land has been substantially and continuously used for production of crops or specific livestock for the immediate past five (5) years, so I immediately had two (2) big questions about this: why did the tax change happen in 2013 and there is no petition until 2013? That does not make sense.

Councilmember Hooser:

That is the year 2009.

Councilmember Bynum: I am sorry—the change of taxes happened in 2010, but the petition did not come until 2013. The second big question was, “Well, if the lot was not even created until 2007 or 2008, how could it have been in continuous and substantial use when I drove by it every day and saw that it was not being continuously and substantially used until 2008 when the change actually occurred. This is the license agreement that was sent with this petition in 2013; a brand petition in 2013, I thought, because I had not been given the petition; just the supporting documents. But the contract that it is based on was written in 2008. That is consistent with what we all saw in the land use change, right? Pioneer Hybrid International contracted with a division of Grove Farm in September of 2008, and then we saw the screens go up and we saw them doing corn, but we did not get petitions. I have a real problem with that. I asked questions and said, “There must be more documents. Please give me more documents.” Guess what? It turned out that there were more documents. I did not get them until Mona was assigned. When Mona got assigned and was working for the Mayor, and the Mayor was asking for documents, then all of a sudden there were documents; the petition that I was not given for all these months when they would not answer the memo, “Are there more documents?” The petition had this attachment and it talked about Pioneer having this acreage. This is the petition that was not given to me until just one (1) week or two (2) ago. It is a new petition, and in this case, it should be, but I was not given it—but it came in 2009. It turns out that I was not exactly accurate. There was a petition in 2009; I just was not given it. The required supporting documents were not there in 2009. The supporting documents were the ones that were backdated. We do not backdate... and after the—we do not do that. Do we? Why would we do that? So that is the one property. That is the urban property. Now, that is not all of the investigative stuff, but that is just the stage that I had it at from my information.

Now I will move to the Puhi property. Again, same thing— we received a new petition in 2013. I am sorry— this land was already agriculturally dedicated and it was appropriately a petition to change use, and this is in 1999, signed by Allan Smith and Sandra (inaudible). Here is the schedule of the land. Now this is near the end of the plantation, so transition is happening. They are telling us about additions to the dedication, changes of use since 2000 because they have to tell us all of this stuff. We need to know to calculate proper taxes and they have agreed to share this information with us. It is part of their obligation. Then we get a progress report on change of use, so a petition in 1999 and progress report in 2000. Here is from the progress report: you see change of use in 2000 and change of use in 2001. They are distinguishing between pasture and diversified agriculture because they have different rates. They were in the process of keeping us fully informed about change of land use as required by law. Then there is nothing. There are no records from this point until 2006. The first big question about this parcel is what happened between 2000 and 2006? There is no documentation. In 2006, we have this: a list of the land uses in this Puhi parcel and they may not be the same as they were in 2002. Let us say that this is where we are at in 2006 in the Puhi area across from the Humane Society. We have this rancher who has twenty-eight (28) acres with six (6) cattle and horses. We have Mai Na Aina that has twelve point three five (12.35) acres: two (2) acres in pineapple; six (6) acres fenced with sheep and goats; and it has a GE license. We have this rancher who has one thousand seven hundred five (1,705) acres under license, bringing grass-fed beef; commercial beef operation. We have this operator who was twenty-three (23) acres that is fenced and used for pasture for sixteen (16) cattle. Then we have Olumau Angus, a beef operation with about six hundred (600) acres, some of which are on this example TMK, but others are on adjoining TMKs, which is important because these documents also, even though we are using these (3) as an example, make it clear that these same issues are happening on adjoining TMKs, that they are other TMKs that need this analysis. That is where we were in 2006. Here is a letter from our folks at Real Property in 2007 saying, “Upon review of the 2006 Annual Dedicated Property Report”— “Annual Property”— I did not see any reports between 2000 and 2006. It does not reflect all of these issues. “There are unresolved issues on all of these TMKs,” this letter is saying. “We need more information, including the one in question,” which is the first example. Then the record has nothing. There is no response to this letter, no annual reports, and nothing changed. As far as the County of Kaua‘i knows, this is what is happening on those parcels near Puhi because nobody has told us any different. So now what happens? We get a new petition. See how it is marked, “new petition.” It was submitted on July 1, 2013. That is the final day you can send it. Remember that timeline? I am out there in 2012/2013 saying, “Is this appropriate? Have we got these dedications done right? Can I see these documents?” “No, we do not have them yet.” Well, the County is busy processing new ones. They did not tell me that. They approved them November 25, 2013. They gave me these on December 5th and I said, “Wait, you just approved these? Have you sent these letters of approval?” “Yes.” “Why? Do these documents not tell you that the existing petition is in breach? Why are you accepting a new petition when the existing petition is in breach? What are you going to do about the existing petitions?” Those are all outstanding questions.

Here is the summary. I am sorry— I have a whole bunch of other documents that I would like to show. My intention is to put several thousands of pages of documents on the County website. They are all public records. Anybody can do their own analysis. I just cannot technically get this County to do that kind of thing. You think it would be easy. Here is the punch line to this: these three (3) were set as an example. This is just to be illustrative. I did not do the third parcel. The third parcel is on German Hill, right behind there. It appears on that parcel, even though it went fallow for years, it continued to receive agricultural dedication

rates, and we know from the contracts that we have received and from talking to people who live there, that it started being used extensively starting in 2008 and eventually right up to within one hundred (100) feet of their back home. We received no Change of Use Petition. We received no notice. There was no exemption from the conservation plan. So you look at the three (3) example parcels and what we have are three (3) out of three (3) properties experienced changes in use that were not reported to the County as required by law. Two (2) of the three (3) properties require initiation of civil penalties and collection of rollback taxes called for in the law, and that process is underway right now. The one I was wrong about was not a new petition, but it was a petition withheld from me with a backdated finding of fact. That remaining urban parcel received large tax reductions contrary to law in the absence of any supporting documents. That is not supposed to happen. Three (3) out of three (3) violated the Grading and Grubbing Ordinance, but they were not cited as Ordinance No. 808 said we would do, but were after-the-fact permitted.

We do not have time to go into Ordinance No. 808 and those violations, but these violations I know happened from the west side, all the way up to the Wailua River, by all three (3) companies and the implications are very dramatic, as I said in the letter to the Mayor. Everything I said in the letter to the Mayor turns out to be germane, almost to a point. Now this investigation that Mona is doing, that our Staff is collaborating on, now we are finding more serious issues than I even anticipated, but that is not for today. I am not going to go through these. This was prepared by Ashley and it shows you all of the documents I have been seeking. That is my time. Now, because of this and Mona's work, they have moved forward with their plan that they have outlined in memos and I will let her talk about that. May I please ask Mona to come up? How are we doing with time?

Councilmember Chock: The rules are still suspended. We are doing well actually. Thank you so much for considering the timeframe. Councilmember Bynum, you will also have these documents available for all members?

Councilmember Bynum: Yes.

Councilmember Chock: Thank you. The rules are suspended. We would like to call our Deputy County Attorney Mona Clark up.

Councilmember Bynum: While Mona is coming up, I want to say that some of you, and I am sure that Councilmembers, have obvious questions in their mind about, "What does this mean?" But right now, we are in a fact finding mode. We are trying to focus on what the law's requirements are of the landowner. This inquiry will go deeper and it may get into issues that are sensitive and uncomfortable. Mona agreed that we are not going there because it would be inappropriate. She is very good at doing her boundaries. Nobody leaped up during my conversation and said that I was crossing any ethical boundaries in terms of confidentiality. Mona's response can only be limited to fact finding. If she is asked questions about policy issues, our agreement is that she is a fact finder, not a policy advisor. That would have to go to other attorneys, as I understand it.

ALFRED B. CASTILLO, JR., County Attorney: Excuse me. Vice Chair Chock, can I intercede for a little bit? Al Castillo, County Attorney. These are serious allegations that are being raised and what you saw up there on the PowerPoint, there were conclusions, which I believe right now, are the opinions of Councilmember Bynum. I am not trying to disparage Councilmember Bynum right now, but what I want to make clear is that our Office is in the process of investigating the issues that have been presented to us, so I want to make it clear

that we are in the process. What has been produced before you, most of them are public record. I just want to make that clear because if there were any conclusions up on the scene there, they are not conclusions that a fact finder has made thus far. With that, I will leave you with Mona and you can ask her questions. Thank you.

MONA W. CLARK, Deputy County Attorney: I wanted to make clear that as far as the powers, liabilities, privileges, immunities, and all of that is appropriate for Executive Session... how the law applies to a specific parcel land—that is Executive Session material. If we go into that and you want an update as far as that expect of my report, you should schedule an Executive Session for that portion of it. The only thing that I am really able to say at this point is that we have an ongoing investigation. I obtained documents. I am in the process of obtaining more documents. I have additional things that I want to do in the investigation. It will take me a couple more weeks to get that far, at least, and then we would have to put together a report after that that reconciles all of the information and makes it readable for everybody. Then I would submit it for discussion in Executive Session.

Councilmember Chock: We have a question here from Councilmember Rapozo.

Councilmember Rapozo: I think you answered it before me asking, and I was just going to ask you if you have an active investigation going on at this moment.

Ms. Clark: Yes.

Councilmember Rapozo: Is it right to be having this discussion in the open session, being that it is an ongoing investigation?

Ms. Clark: I think that the Councilmembers can raise questions that they want to have raised and issues that they want to have raised. That is your right as a Councilmember. As far as my duty to the Council, I cannot go into specific facts, powers, and liabilities of the County as related to specific facts in open session. That should be something that is happening in Executive Session.

Councilmember Rapozo: That is the first time I saw that presentation, but my understanding is that they are public record... I am assuming they are public record. I know that on one of those slides, you can see individual's names. I am assuming those are lessees that were not redacted and I guess I am concerned that... I am not sure if you folks reviewed it before it came up here. I remember once that I put tax returns up there for the Spouting Horn rental and I just got hammered, although it is public record. Some of the information was redacted obviously like social security numbers and so forth. I am concerned that if an investigation is ongoing, we probably should not be having a discussion in open session. That is just my experience. I have been cautioned by you folks all the time when I try to sneak in some stuff, but I did not hear any caution from you guys early on and I am just wondering if it is appropriate to be discussing this in open session when we know, you have just stated, that there is an active investigation by the Administration.

Ms. Clark: I guess you have two (2) questions. You have a question that is a policy question, whether that is going to be beneficial in helping to get information that I may be seeking. The answer to that is it probably will not make it easier to get information. The question as far as whether a Councilmember has a right to make a presentation to findings he has found...

Councilmember Rapozo: I am not talking about that.

Ms. Clark: Or information he has accessible to him, that is a separate question and I think you can present documents that are available to you in open session.

Councilmember Rapozo: I know. That is not the question. The question is because there is an active investigation by your Office, Finance, and whoever else is doing this, is it appropriate for this Council to have a discussion about what is being investigated at the time the investigation is being conducted? That is the only question I have. I understand that I can put anything I want on there that is public record, but the question is understanding from what you just said that there is an active investigation going on, is the right thing to do to have an open discussion regarding the investigation that is going on?

Mr. Castillo: For the record, Al Castillo, County Attorney. It is my opinion because I did not know what the presentation was going to be. If it was a broad discussion, it would have been appropriate, but it was getting into facts, which would be inappropriate. I agree with Mona that something like this should be in Executive Session, but the other part of this is just because there are concerns and allegations in the manner of due process, it does not give the people that are the focus of the inquiry any time to respond. I agree with you that any investigation should not be done on the floor. The request for an investigation, the basis for the request, would be appropriate, but when it gets into facts, then that is not appropriate.

Councilmember Rapozo: May I continue?

Councilmember Chock: Yes.

Councilmember Rapozo: The posting says that we are supposed to get an update from Mona about the investigation. That is what I had envisioned, that you would come up and said that an investigation was conducted, it started on this day, and we are in the process here of fact finding, and an update, but we are almost one (1) hour into the item and we have not heard from Mona. We had basically Mr. Bynum's investigation, which I must say is pretty damn good. He was able to get the documents and all of that, but that is not what is on the agenda. The agenda is an update from you. I just want to make sure we are all good. I worry when I see people's names up there that are not the County and not the landowner. I get concerned when I see names up there that may not even be involved and thank goodness we do not have video right now. Maybe we do, but I am not sure. My name showed up on one of those screens and I have nothing to do with this. I guess I would be kind of upset. That is my concern.

Councilmember Chock: Councilmember Bynum.

Councilmember Bynum: I feel like we are getting really off track because really what I wanted Mona to respond to is this public document that she has already generated. I want to say that everything that I presented up there is public record. When I redacted some local ranchers' names, that was just a courtesy. I do not know what names that Mr. Rapozo is referring to. The names of the people who signed the documents?

Councilmember Rapozo: No.



Councilmember Bynum: Those are all public record. I do not want to go in any level, and I have had extensive discussions with Mona, that crosses many boundaries because there are those boundaries present. I really want Mona to respond, as we already discussed in this memo, and stay focused on this letter. I am done.

Councilmember Chock:

Councilmember Hooser.

Councilmember Hooser: Good afternoon. The investigation that the Mayor— it is referred to the Administration— it is my understanding that this was a result of Councilmember Bynum's inquiries and requests and persistence, that the Mayor looked at the information he presented and talked to the Administration and said, "Yes, you have valid concerns; therefore, I want to investigate." Is that an accurate depiction of the circumstances?

Mr. Castillo: I am sorry— I know this is not being videoed, but at the point in time that the County Attorney's Office were requested to engage in these concerns and at the point in time where it became apparent that it was a joint concern, and when I say "joint concern" is in terms of the Administration and the Council via Councilmember Tim Bynum. I cannot say that it was only because of the request and the persistence of Councilmember Bynum, but he did start the inquiry and we did engage with him quite some time ago, in fact, months ago.

Councilmember Hooser: Okay. I have a letter here from the Mayor that says, "I received a letter from Councilmember Bynum raising concerns. After discussing the matter with the Department of Finance and the Department of Public Works, I decided to initiate an in-depth, internal review." It is clear to me and it is in writing that Mr. Bynum initiated this conversation. It was only after the evidence rose to such a level where the Administration then decided, with Ms. Clark's help from the County Attorney's Office, to launch the investigation. My point being that you talk about the Administration's investigation— that does not preclude this Council from asking questions. Councilmember Bynum started it. He has done the research. Can you put the closing slide on there? The Mayor further says that Deputy County Attorney Clark is calculating potential rollback taxes, determining whether laws and regulations were followed. This is the Mayor saying it, "Our preliminary findings that there may be irregularities and we would like to conduct additional research and show a thorough investigation. We appreciate the work Councilmember Bynum has done to inform us of this issue and respectful dialogue that has taken place. I believe it will lead to meaningful changes." I believe the conversation that he initiated here on the Council goes directly to working together with the Administration, which he has tried to do all along. I think a reasonable person would look at the conclusions that were raised and the information that has been presented and conclude... that those conclusions... three (3) out of the three (3) properties that he looked at experienced changes that were not reported to the County as required by law. I believe he is asking the same question that I am asking, "Tell us this is not true. Tell us that those properties have all of the documentations they need."

Ms. Clark: I think the response is that as far as specific properties and the application of law to specific properties and the liabilities and powers of the County, that is something that you need to be briefed on in Executive Session, and it is really not something that is appropriate to be doing.

Mr. Castillo:

Excuse me...

Councilmember Hooser:

If I could respond to Ms. Clark...

Mr. Castillo:  
will wait.

Okay, I will respond to what you just said. I

Councilmember Hooser: I have been doing this long enough where I perfectly recognize and respect the need to have Executive Sessions to discuss the details and particulars of certain cases that may wind up in Court. I respect and honor that, but too often this venue... this mechanism is used to keep what is happening from the public. I think we need to have a certain amount of public discussion. We do not have to make determinations of whether they broke the law or not, but we need to have a public discussion on this and not just run on to Executive Session every time because there are a number of these issues that the County Attorney's Office refuses to discuss in public. This is a public discussion. The public deserves this discussion. This is only three (3) properties and the bigger picture is the forty (40) or more properties. These are only three (3). It is my understanding that the Administration is only looking at three (3). This Resolution that we are going to be going through calls for a broader look. This is eight million dollars (\$8,000,000) to nine million dollars (\$9,000,000) of potentially lost revenue to the County. This is a lot of money on the table. There is a lot of—correct me if I am wrong— if a person grades and grubs on property without a permit, that is against the law. Is that correct?

Ms. Clark:  
required.

If you do grading and grubbing, the permit is

Councilmember Hooser: It is against the law, right? Is that a criminal thing? I believe it is a criminal violation. Correct me if I am wrong. This is not the type of management that we can say, "Oh, you did not really mean to do it. Here it is. We will give you a permit." This is real serious stuff; grading and grubbing especially, not to mention all of the money. I will just leave with it that, Chair. This deserves a conversation and I do not like being "hushed up" when we are talking about issues like this. Thank you.

Mr. Castillo:

Chair, may I respond?

Councilmember Chock: Sure. Right before you respond, I want to make sure that what we are moving towards is what the next steps are that we are taking, where we are headed, and how long that is going to be. We will have Nadine come up. Please continue with your response. Councilmember Bynum is next.

Mr. Castillo: What I want to say is that as your County Attorney, we have to protect the Constitution; we have to protect the County. We do not ask to go into Executive Session just because— if there is anybody out there that thinks that we want to hide anything, that is absolutely not true. It is our duty and obligation to protect people's rights. We request to go into Executive Session when it is legally appropriate. There is nothing to hide here. The only exception to what was said here when it was mentioned that or the only reason why we are going down this path is because of the request and persistence of Councilmember Bynum. I wanted to correct that statement because the reason why we are here and the reason why there is a joint venture in this is that because clearly, yes, Councilmember Bynum was the catalyst; but yes, as we were doing our investigation, the Mayor certainly recognized that there is an ongoing inquiry and this is something that we should look at. We can say that this out in the open. The reasons why the Council is doing what it is doing and the reason why the

Administration is doing what it is doing is to protect this County. Really, we have nothing to hide. We have (inaudible). Thank you.

Councilmember Chock: Thank you. Councilmember Bynum has a question.

Councilmember Bynum: I just got a notice that... I think the record will show that we spent more time on this item talking about process than the item itself. If I could have five (5) minutes to talk to Mona and ask questions, we could probably be close to done with this. They are calculating back taxes and rollbacks. They have sent a letter— the Mayor has his timetable to respond. That is his *kuleana*. We have our timetable to respond and that is our *kuleana*. In that process, you have sent a letter to Grove Farm, asking for more information. I would like to read from the first paragraph of that letter, compared to that slide. I said three (3) out of three (3) properties had land use changes that need to be reported. May I? I will just read the first sentence: "The County of Kaua'i is seeking additional information on three (3) properties for which Grove Farm, Inc. or its affiliates received approvals from the County for agricultural dedications." These are identified as the three (3) we have been talking about. "It has come to the County's attention that Grove Farm failed to petition the County for authorization to change the agricultural use specified in agricultural dedications— two (2) of them. Like I said, two (2) out of the three (3), they failed. That is what you just told them, correct?

Ms. Clark: That is what the letter says.

Councilmember Bynum: Okay. Can I put that slide up again that Councilmember Hooser asked for?

Mr. Castillo: Vice Chair...

Councilmember Bynum: That is the two (2)...

Mr. Castillo: Excuse me...

Councilmember Bynum: Point of order. I do not want to be interrupted again.

Councilmember Chock: I am going to call for a recess now.

There being no objections, the meeting recessed at 2:36 p.m.

The meeting reconvened at 2:47 p.m., and proceeded as follows:

Councilmember Chock: We are back from recess. During the recess, we discussed how it is that we want to move through this section here. With that, we are going to hand it over to Councilmember Bynum, who will take us home and move us towards where this investigation will continue.

Councilmember Bynum: I need the PowerPoint back. What I am going to do is just finish the last piece of the PowerPoint and move into this letter that I wanted Mona to comment on, but the County Attorney, in my mind, has inappropriately intervened in our dialogue. This warrants many hours, in my mind, and I went through things quickly. I did that whole presentation in less than thirty (30) minutes total. I missed the punchline on the Puhi document. Remember the Puhi parcel? So this is where we were in 2006. We have a whole bunch of cattle

ranching happening in Puhi. Then we have nothing until 2013. All of a sudden, there are two hundred thirty-three (233) acres Agrigenetics, and this does not have all of the detail, but Olumau Angus— that company is gone. As far as the County knew, it was still there. It is not operating. Other ranchers have one thousand (1,000) acres less. There are new uses of two hundred thirty-three (233) acres for a new use that was never exposed to us. What I said in these things is that three (3) out of three (3) properties experienced changes in use that were not reported to the County as required by law, as there is an ongoing investigation, and the County Attorney is seeking information from Grove Farm, and they have sent this letter. Please listen carefully: “Dear Mr. Tresler, the County of Kaua‘i is seeking additional information on three (3) properties...”

Councilmember Chock: Mr. Castillo, come on this side and talk to me if you want to.

Councilmember Bynum: ... “the properties of the three (3) we are talking about. It is come to the County’s attention that Grove Farm failed to petition the County for authorization to change agricultural use specified in agricultural dedications...” Two (2) of them; just like I said— what happened to the thing? That is the two (2) of the three (3) right there. This is not an allegation. This is a fact, right? “It has come to the County’s attention that Grove Farm failed to petition the County for authorization to change the agricultural use specified. In addition, an agricultural dedication located in the urban district was approved through the file, does not contain any document that the land has been in continuous...”

Mr. Castillo: Excuse me...

Councilmember Chock: Hold on. I am going to call another recess here if we cannot...

Councilmember Bynum: Is he calling a point of order? Under what part of our rules is he interrupting me when I have the floor?

Councilmember Chock: That is why I am saying, County Attorney, unless you are recognized, you cannot speak here. That is our rules. I understand. If you folks cannot get to a resolution about what can be said or what cannot be said here on the floor, we will recess again until you folks figure it out. Councilmember Bynum, as we have discussed, would read this letter to get through it. It is a public document and that is what our intention was here. If this will continue— if you are going to interrupt again, then we will recess and we will come to some agreement.

Mr. Castillo: Then I would like to have five (5) minutes with Councilmember Bynum.

Councilmember Chock: Yes. Let us recess again.

There being an objection by Councilmember Bynum, the meeting recessed at 2:52 p.m.

The meeting reconvened at 3:02 p.m., and proceeded as follows:

Councilmember Chock: We are back from our recess and we are going to try this again like it is “Groundhog Day.” We are going to see how far we can get through this. We have an agreement, so I am going to hand the floor over again to Councilmember Bynum.

Councilmember Bynum: This is not the first time I have had the floor and been interrupted, but it was highly inappropriate. There is nothing under our rules, as I said, that allows the County Attorney to interject while I have the floor, given that I want this story to be about what was presented here today and not about process and infighting. I suggest that we defer both of these items, take public testimony for two (2) weeks, and we can have offline dialogue about some of the concerns that were brought up in the last hour.

Councilmember Chock: Thank you. As the rules are suspended, if there is no more discussion with the County Attorney, what I would like to do next is open it up to public testimony. Actually, I will open it up to the Administration as well since they did come and I thought Nadine had something to add to this.

NADINE K. NAKAMURA, Managing Director: Thank you for this opportunity. Nadine Nakamura, Managing Director. There were questions earlier about the Administration's point of view, so I just wanted to respond to that, that yes, we want to acknowledge Councilmember Bynum for raising this issue and doing the back research to get to this point and to raise this. We have put together a pretty comfortable timeline that we think we can meet that involves giving the landowner due process to answer some questions, conduct interviews with adjoining landowners, revise and clarify potential rollback taxes, finalize the investigation, and then meet with the Council about the next steps. We have a timeline that was passed out to all Councilmembers and we would respectfully request a deferral to do this, to consult with Councilmember Bynum along the way, and confer and report back to the full Council at your last meeting on December 17th.

Councilmember Chock: We have a question from Councilmember Bynum.

Councilmember Bynum: So the Administration is asking for a deferral until December 17th?

Ms. Nakamura: Yes, but we will be consulting with you along the way as we get the information back regarding the final investigation.

Councilmember Bynum: Well, I read the memorandum. Do you know what seven (7) members will be here on December 17th?

Ms. Nakamura: No, I have no idea.

Councilmember Bynum: Okay. Thank you.

Councilmember Chock: Are there any further questions of Managing Director Nakamura?

Councilmember Rapozo: I have a question.

Councilmember Chock: Go ahead, Councilmember Rapozo.

Councilmember Rapozo: Thank you, Mr. Chair. I am looking at the timeline, Nadine, conducting interviews— do you expect to finish that by then? So “conduct interviews; 9-15 persons.” Do you expect that to be done by October 18th?

Ms. Nakamura: Mona is tasked with doing the investigation and conducting the interviews as part of that investigation.

Councilmember Rapozo: Do you think that you are going to be able to get through fifteen (15) people— have you started that, I guess, I should ask?

Ms. Nakamura: I would need to ask Mona.

Ms. Clark: I have not started.

Councilmember Rapozo: You have not started. I am just trying to be a realist here. I hate to come back here only for you folks to tell us that you are still not complete with certain aspects. So you are confident or comfortable that by October 18th you will have conducted all... I will just go with the fifteen (15) interviews. I am speaking as an investigator. Fifteen (15) interviews— you have to give one (1) hour apiece; that is fifteen (15) hours... as well as the tax rollback calculations...

Ms. Nakamura: Much of that work has been done.

Councilmember Rapozo: You expect the final investigation to be done by?

Ms. Nakamura: That gives Mona one (1) month from the time we have the response from the landowner, the interviews conducted, the rollback taxes, and then she has one (1) month to then complete the investigation.

Councilmember Rapozo: Okay. I think this is what the posting was about, which was an update and this gives me a better idea of where you are at and when you plan to be done. Thank you.

Councilmember Chock: Councilmember Hooser.

Councilmember Hooser: Good afternoon. I greatly appreciate working together with Councilmember Bynum and putting all the work that he has done and using the resources; and the Administration moving this issue forward. Clearly, the Administration would not be doing that if they did not feel there was a legitimate cause for concern.

Ms. Nakamura: Yes. I think the other part of it too is to look at what the concerns are, making sure we have good data, and a written report in front of us, so that we can take that information and then take a look at what are the bigger policy and operational issues that we have to address. These are just three (3) parcels and there is a lot of work involved in making sure that we have good information on which to base any future decisions, so it is a process.

Councilmember Hooser: I understand and appreciate the complexity of it. There are a lot of people, as well as organizations, that are moving parts. There are private landowners, lessors/lessees, and County employees involved in this whole process. I imagine the Administration would reach a couple of conclusions: one is I think you mentioned is “what policy changes might have to be made?” What does the County have to do to keep things on track in the future, if we assume for a second that things are not on track? What can we learn from this? How do we get better?

Ms. Nakamura: And do we need to make any changes to any of the laws to address some of those *pukas* in the laws.

Councilmember Hooser: Right. Moving forward, there would also be possibly back taxes and penalties that the County may collect or at least levy. The issue about Ordinance No. 808, though we have not talked a lot about that; the Grading and Grubbing Ordinance—the lack of permits for that. I did not see that in the letter.

Ms. Nakamura: Yes, the investigation will also deal with that issue and the potential rollback taxes.

Councilmember Hooser: Okay. Just for the public, Ordinance No. 808 is a “Grading and Grubbing Ordinance” that essentially says agricultural operations can be exempt from that permit requirement, but they have to file a conservation plan and have it approved, I believe.

Ms. Nakamura: Right. I think the major policy issues will probably go back to budgetary items. If we have one thousand nine (1,900) agricultural dedicated properties with half percent (0.5%) in the Real Property Tax Division overseeing this, then we need to take a look at what are our resource needs in order to fully implement this law or both laws.

Councilmember Hooser: Right. But if a property owner fails to comply with the law, it is not the County’s fault because we have one, in my opinion. Compliance with the law is on the landowner and the person leasing the landowner. Is that correct? I will move on because I know we have a long agenda. One of the most troubling aspects of this is that Councilmember Bynum picked three (3) properties to start looking into and all three (3) apparently are woefully lacking in documentation that should show compliance, to put it politely. There are many, many other properties out there. Is the Administration going to be looking at those? I am not talking about “mom and pop” properties.

Ms. Nakamura: I think the one thousand nine hundred (1,900) agricultural dedicated properties or the farms on this island range in size.

Councilmember Hooser: Right. If you look at these three (3) parcels, and then see what other parcels are similar in nature to them, larger agricultural parcels with different people leasing and coming in and out of it, that is where I am troubled that it is likely given what we have learned so far that there are many other or at least other significant violations, given that the first three (3) he picks seem to have these serious issues. Will the Administration be looking at picking one of those larger parcels out of the hat?

Ms. Nakamura: That is the dialogue. We need to think very closely about what the methodology that we want to use. There is smaller land holdings, mid-sized, and larger land holdings, and then decide if we are going to do a further audit of these. Where do we want to put our resources? Where does it make most sense to do that? That is the dialogue that I think we need to have with the Council.

Councilmember Hooser: I think it would make more sense when the larger properties in terms of returns if they are not paying their taxes or if they are illegally grading, the impacts in the environment would be greater on those larger parcel as well. Thank you very much.

Councilmember Chock: I have one question. Is it by November 18th when the finalization of the investigation comes to fruition that you want to have a

broad perspective on not just the three (3), but what we might be looking at in its entirety? Or is it just for these three (3).

Ms. Nakamura: November 18th is just for the three (3), and then the dialogue that we would like to have about what are now the implications; further studies, further auditing work that may need to be done, and the strategy behind it.

Councilmember Chock: Okay. Thank you. Councilmember Bynum.

Councilmember Bynum: Thank you, Nadine, for being here and for the good work that we have done together over the last few weeks. Even though it is still tense, I appreciate it. I want to go back to the scope issue because that is what I am saying is not being addressed. When you are calculating the back taxes, it says "This petition impacted other adjacent lands," so it is clear that the same issues exist on some of the adjacent parcels. Are you calculating those back taxes as well?

Ms. Nakamura: That is all part of the investigation.

Councilmember Bynum: I said what I want to know is how many petitions did we receive in 2013 that rely on backdated documents and documents that were from previous years? Is it just these three (3)? Is it fifteen (15)? I have asked that in writing for months and months, and no one has responded. Can you tell that answer now?

Ms. Nakamura: I am sorry, I do not know the answer.

Councilmember Bynum: How many applications were received in 2013? Why do the people not answer that question for months? My thing about the scope is...

Ms. Nakamura: Can you please clarify the question? You want to know how many properties received agricultural dedications that were backdated.

Councilmember Bynum: How many applications did we receive for new agricultural dedications in 2013 that had documents submitted that were from 2008 and 2010? We know there were more than these three (3). It would be absurd to think there were not more than three (3). Is this issue about not informing the County about agricultural dedications true of only one (1) landowner or is it true of other landowners? Those are the questions that can easily be answered by Finance today and they have refused to answer to me. These are just three (3) and it takes all of this work. If we need to do forty (40), do we not need some outside help, an independent person to do this? Our County Attorney cannot do forty (40) investigations like this.

Ms. Nakamura: Well, when we come back on December 17th, that is what we want to be talking to you about.

Councilmember Bynum: On December 17th?

Ms. Nakamura: Yes, when we complete our investigation, have something in writing, and we can discuss it at that time.



Councilmember Bynum: We know that Ordinance No. 808 involves many parcels. We know that already. When the chemical companies came here and the land use changed to much more intensive use, there were no conservation plans or no applications for exemptions received. We know that all the way from west side to here. We know that the scope is much bigger than these three (3), yes?

Ms. Nakamura: Yes. I think that is why I said earlier that the investigation covers these three (3), but there will be policy and operational implications that we would need to discuss. We are just not there yet.

Councilmember Bynum: As I said earlier, the timeline for the Administration is fine, but that timeline takes this Council into a position where what if the Mayor decides on December 17th that, "No, we do not need to do an investigation. We do not need to worry about this." We are here today because the Mayor chose not to do that, right?

Ms. Nakamura: Well, the Mayor is committed to addressing the concerns that have been raised and do a thorough investigation, work with the Council to make sure that we address the concerns. He is committed to doing that.

Councilmember Bynum: Okay. Thank you.

Councilmember Chock: Councilmember Yukimura.

Councilmember Yukimura: I wanted to thank...

Councilmember Chock: I am sorry. I got a note here that we have to change the tape. Can we come back to you?

Councilmember Yukimura: Yes.

Councilmember Chock: Okay. Thank you. We will recess for five (5) minutes.

There being no objections, the meeting recessed 3:18 p.m.

The meeting reconvened at 3:24 p.m., and proceeded as follows:

Councilmember Chock: We are back from tape change. The rules are still suspended. Councilmember Yukimura has the floor with questions for our Managing Director.

Councilmember Yukimura: Thank you for being here Nadine. I wanted to start out by thanking the Administration for cooperating with Councilmember Bynum to investigate and find out what the facts are, and then what the responsibilities are. I think I heard you say that... I think there is a concern because of some of the withholding or the slowness of documents to be provided, that the Administration is committed to a thorough investigation on these three (3) properties.

Ms. Nakamura: Yes.

Councilmember Yukimura: And enforcement if that should be warranted.

Ms. Nakamura: Yes.

Councilmember Yukimura: Then there is a bigger picture beyond that I presume will be proposed to be the subject of this 3.17 Investigation.

Ms. Nakamura: Can you repeat your question?

Councilmember Yukimura: It looks like this Resolution that is before us wants to address the larger picture, and I wanted know the Administration's stand on it.

Ms. Nakamura: We believe that we should follow this schedule that we have outlined, which involves doing our research on the three (3) properties and assessing the implications of this under the two (2) laws that have been pointed out, and having a discussion with the Council about where we go from here. We believe that is the process that will lead us to a solution that will be workable.

Councilmember Yukimura: It is good news that the Administration wants to work with the Council. The Administration; the Mayor, as Chief Executive Officer, is the Chief Enforcement Officer.

Ms. Nakamura: And he takes this very seriously.

Councilmember Yukimura: Yes. Thank you very much.

Councilmember Chock: Any further questions? Councilmember Rapozo.

Councilmember Rapozo: Thank you, Chair. Like Councilmember Yukimura, thank you for responding to the concerns. I wish I would have gotten this kind of response with illegal Transient Vacation Rentals (TVRs). This ball is rolling and mine is still stuck someplace. Anyway, having said that, I appreciate the timeline because I think it is a doable one and I think it is a realistic one. These three (3) companies—are they seed companies? Is that what these three (3) are? I saw forty (40) properties or over forty (40) properties, but are they just seed companies? Are the lessees seed companies? Can we say? All I heard today was "Grove Farm."

Ms. Nakamura: Are the lessees seed companies? Yes, they are.

Councilmember Rapozo: So all three (3) are Grove Farm?

Ms. Nakamura: Yes. Mona is doing the investigation, so she should answer that question.

Councilmember Rapozo: Like I said, that is the first time I saw that presentation, so I am just curious.

Ms. Clark: I think that we have different parties involved, but I really do not think that it serves the great function right now to go into which the parties are, and I think you brought that point up earlier that that does not really serve the investigation to go into everybody's identity.

Councilmember Rapozo: Okay. That is fine. I bring it up because it was on the slide. The millions of people who watch us on television are

unfortunately not going to see it because it is not working, but they can hear. It seems that Grove Farm obviously was at least one of them. My question is if there are forty (40) properties that potentially have problems with this type of issue— I heard you say that you are looking at the three (3) right now, but is it a plan to expand this later to include others?

Ms. Nakamura: That is the policy call that we are going to have to make.

Councilmember Rapozo: Depending on what you find?

Ms. Nakamura: Yes. Once we have the results of the investigation and once it is complete and we have a written version in front of us, we can all take a look at it and say, “What are the larger implications here and how should we go about addressing the larger issues?”

Councilmember Rapozo: Okay. Thank you.

Councilmember Chock: Councilmember Bynum.

Councilmember Bynum: When I gave this presentation, there were a lot of dedications on these three (3) parcels and there are seed companies dedications... the larger portions, but there are others, correct?

Ms. Clark: I am not sure that I understood the question.

Councilmember Bynum: That is okay. I will pass.

Councilmember Chock: Okay. If there are no further questions, I would like to move on. Thank you for your presentation. Actually, we have one more question from Councilmember Yukimura.

Councilmember Yukimura: Chair, there is a question to defer until after December 17th...

Councilmember Bynum: Councilmember Yukimura, if you are not present, you do not know about previous discussion.

Councilmember Yukimura: I am sorry...

Councilmember Bynum: We are contemplating a two (2) week deferral.

Councilmember Yukimura: Okay.

Councilmember Bynum: The Mayor has asked for December 17th.

Councilmember Yukimura: My question is for Mona because what makes me uncomfortable about the Resolution is not knowing how it would be implemented if we pass it. In these two (2) weeks, I would like to have some clarity about whether a Court Reporter is going to be necessary or whether we can do it through our minutes process? I think we have an opinion that says that we cannot delegate our investigative powers to anybody, so that means that we have to be around the table. I think we should also have in the Resolution, a scope or work; our focus. Those kinds of things— in the time between deferral— the Resolution is on the agenda right now, right?

Councilmember Chock: We are on the communication right now.

Councilmember Rapozo: We are on the update for the investigation.

Councilmember Yukimura: Okay. Then I will wait until we get to the Resolution.

Councilmember Chock: Okay. Councilmember Hooser.

Councilmember Hooser: Is the plan to have the report ready on December 17th? What is the date of the new Administration? When is the swearing in? Is that December 3rd?

Ms. Nakamura: December 1st.

Councilmember Hooser: Because we do not know whether we will have the same Council or same Administration, is it possible for you to move that prior to that date, so we could engage the issue before we all say *aloha*, if some of us are saying *aloha*? Seriously, the 17th— We could, in theory, have an entire new Council and new Administration and it makes sense to conclude the discussion before that date, in my opinion, since that is who is having the conversation now. Is that possible that the Administration could move to an earlier date?

Ms. Clark: I am just saying that to interview all of the people is going to be a time consuming process. That is one factor. Then to put the report together is going to be another factor. I have other obligations that I have to take care of and I do not think that I can totally ignore everything else that I have to do. I will try to be as expeditious as possible, but there are legal questions, too, that I think need to be researched. I think that we should have a firm understanding of how those are going to fall out and the various problems that may arise. We need to have a very comprehensive look at everything.

Councilmember Hooser: Okay. So you will do best you can?

Ms. Clark: I will do the best I can, as quickly as I possibly can, but there are constraints on my time.

*(Council Chair Furfaro is noted as present.)*

Councilmember Hooser: Right.

Ms. Clark: That is just being realistic.

Councilmember Hooser: I understand. Thank you very much.

Councilmember Chock: Thank you for your time. I would like to ask for public testimony at this time. Is anyone registered at this time? Mike Tresler, please come up.

MICHAEL H. TRESLER: Good afternoon, Council. My name is Michael Tresler, Senior Vice President from Grove Farm Company. It is really disappointing to show up today and be accused of basically doing things and taking actions, which is not accurate. Let me start by saying this— I also appreciate the opportunity to share the “good neighbor story.” When Steve Case bought Lihū’e Land Company in 1999, the lands you are talking about by Walmart, behind

Molokoa, and across the street, we call that “Ahukini Makai,” we are already zoned “urban.” It was a conscious decision by Dan Case to not continue agricultural dedication and pay taxes to be a “good neighbor” to the County. When I showed up in 2007 at Grove Farm, I made a suggestion we should dedicate the lands because taxes had escalated and I had the same response, but in the next year, because the taxes had escalated from fourteen thousand five hundred dollars (\$14,500) in 2001, two thousand percent (2,000%) to two hundred eighty thousand dollars (\$280,000), they agreed to let me dedicate that land there. There is no change in use in agriculture from the year 1999 through 2014. In 2002, we have a lease with Pioneer seed company who started doing agriculture, so we met the five (5) year—there is no issue with paperwork there on that one (1) particular parcel. So I hear the rhetoric about millions of dollars—yes, it is correct; we have paid millions of dollars to the County when we legally had the right to dedicate those lands and not pay those taxes. On the parcel in Molokoa, we have paid two million four hundred thousand dollars (\$2,400,000). We made a conscious decision to do so. We could have it fenced, put in cattle, and not pay taxes and get the dedication. Because it was the wisdom of this Council in 1996 and the Land Use Commission (LUC) that approved 7:0 to put in a requirement in your ordinance that says “we shall continue to do agriculture and diversified agriculture” or otherwise keep it in good shape; in a good condition. Anyway, in 2009, we dedicated. They saw the difference in taxes. They sent the request to the County Attorney’s Office and they reviewed it to see if we needed a special use permit to do agriculture in urban, which we did not. Basically, it was in the law that we shall do diversified agriculture or agriculture, and then it got kicked back to Real Property Tax and we got the land dedication. It is as simple as that. We have been doing agriculture all along there. I think it is a good policy when people rezone lands that this body and the LUC require landowners to continue it or keep the land or keep doing agriculture because these developments take forty (40) years before you can actually do things. We still have not received our permits to do any type of development on those lands and it is already been close to forty (40) years.

Councilmember Chock: That was your three (3) minutes. Do you have more to share?

Mr. Tresler: Yes. There are a lot of questions and since we are bringing up the issue about the land dedication, there is no land use change and I do not know why we received a letter, jumping to conclusions that we had. There are various— if you look at the prior dedication before Pioneer took the lease and started doing it, it has cattle feed and all kinds of various agricultural activities included on that. We did not go from pasture to mixed agriculture; it was in mixed agriculture and mixed agriculture, so we really dispute that part that we had an issue, so it is not really three (3) out of the three (3). There is an issue on the other parcel in Kīpū, where we did change the use on two hundred (200) acres of land, and I am responsible for that and we were late in reporting that change in use and we expect to pay the rollback on taxes. On that one, we are going through a legal dispute with the rancher who pulled out at that time. We have our calculations of estimates. It is not a significant amount of money. We deal with forty thousand (40,000) acres and we have two hundred (200) or so tenants. You really need to look at revising this law because if you are growing tomatoes, and then you change to potatoes and that constitutes a change, we have to look at those things. Now if you change classes between doing cattle ranching and mixed agriculture, there is a tax implication in that. That is where the changes are. Do we have a lot of changes going on in our property? No. That is why we report them when we do have those changes or when we need to rededicate property, those uses get reported in there. We have been working very closely with the Real Property Tax office. Please keep in mind that these laws were made to protect agricultural lands and make it

affordable, and basically a positive thing to continue doing farming and receiving the benefit of lower taxes. Now all three (3) tenants so happen to be seed corn companies. We are Grove Farm and we are the only company named. We do have one of our employees who is also running for Council, so if people listening do not think that this is politically motivated, then they are crazy and out of their minds. Thank you very much for this opportunity. Again, we have nothing to hide. We have paid a lot of taxes to the County, and again, it was a conscious decision to do so. "No good deed goes unpunished," which is something that is happening here, but really, if we took an aggressive tax strategy and we dedicated all those lands, the County would have been without three million dollars (\$3,000,000) to four million dollars (\$4,000,000) that we have paid over the past eight (8) to ten (10) years on those parcels. Thank you very much.

Councilmember Chock: Thank you, Mike. I am going to entertain questions, but I want to remind the body that we are moving in the direction of an investigation as well. While there might be different presentations represented here, let us keep it as objective as possible. Councilmember Yukimura.

Councilmember Yukimura: Mike, I want to thank you for coming today. It is clear that there is another side to the issue and I will let the investigation continue because I think one of the intentions is to get answers from your perspective and we will look forward to seeing that in writing. Thank you.

Mr. Tresler: Thank you.

Councilmember Chock: Councilmember Hooser.

Councilmember Hooser: Good afternoon. The issue of the Grading and Grubbing Ordinance— do you have any comments about that regarding those parcels?

Mr. Tresler: I have comments regarding anything involving agriculture. Councilmember Hooser, I think having experience dealing with the process of obtaining a Grading and Grubbing Permit has been extremely difficult, especially when they have had some changes recently, which has really helped to push Grading and Grubbing Permits and Conservation Permits along; I am talking about the Grading and Grubbing Conservation Plan approval, which then leads to the exemption from the Grading and Grubbing, which is so important to farmers and any farmers, small or big, and in particular the smaller farmers. My comment is let us just be very careful now because you are going to hurt everybody and not just the big guys. I am all for protecting our soils. I have been championing that from the day that I started with the seed corn companies and we put stuff in writing in our leases. They are complying. We have been growing cattle feed and different types of cover crop in programs and trying to work with them. It is never a "cakewalk" because it costs a lot of money to do things right. We have obtained a lot of strides or positive strides in that area. It is serious and we need to abide by the law, and we want to make sure that our tenants do. We are not out there farming. We need to manage them. It is in their leases that they are legally required to obtain all necessary permits. There may have been some things that happened in the past, and in particular I know on the west side that there is an instance that happened, but I also know that their conservation permits and plans were submitted and ultimately approved, but there was a big bottleneck there. There is an issue with the process. I am not sure if you are aware of that or not, but that is my comment on that.

Councilmember Hooser: The three (3) parcels that were addressed— I think it was said that all three (3) lacked the appropriate grading and grubbing exemption. Is that your understanding? Have all three (3) of those properties been operating with the appropriate grading and grubbing requirements?

Mr. Tresler: To my knowledge, yes, they have been.

Councilmember Hooser: It is the time of year that I call the “silly season” and each of us have been accused of using this chair for political purposes, and I am not going to use the choice words that Councilmember Rapozo has used in the past out of respect for the community and yourself; but just for the record, these questions have been asked for well over one (1) year: the questions about the permits and about what is going on; well before any employee from Grove Farm decided to run for office. While it tends to be twisted around, and not just you, but a lot of people will look at these issues and say it is political, but I just want to assure you that these questions have been asked for a long time, well before your employee was...

Mr. Tresler: Thank you, but still clearly focused on seed corn companies, which I understand is an issue at Councilmember Bynum’s heart. Until they change the laws, agriculture is agriculture and we support all agriculture. We do our best. It is not easy managing forty thousand (40,000) acres, trying to keep agriculture affordable for the small farmers. They play a role. There is no doubt that they pay significant rent and help maintain infrastructure. There are positives, too. I know there are a lot of concerns in the community, which we share as well, but I would just like to leave you with that. We understand and try to achieve balance as we do. We appreciate the time, like I said, the opportunity. For me, it is an opportunity to brag. Yes, I am frustrated, too, but clearly there is a conscious decision for us to pay these taxes. We try to follow the law and have all of the paperwork in order. To be lambasted in the paper and have all of these conspiracy theories about millions of dollars is really frustrating and unfortunate, but I appreciate the time to come here and provide some facts.

Councilmember Hooser: Thank you very much.

Councilmember Chock: Thank you. We have a second round of questions here, but I want to move us to finalizing this, if could you take the last question. Councilmember Bynum.

Councilmember Bynum: This will be my first round. Hi, Mike.

Mr. Tresler: Hi.

Councilmember Bynum: On the German Hill parcel, you had an approved— I am sorry, it is getting late in the day— but you had exemption from the agricultural exemption prior to the one I have been proffered in 2011?

Mr. Tresler: Yes.

Councilmember Bynum: Could you offer that to the Council because the County Attorney said that he had no other ones? I meant to say Public Works.

Mr. Tresler: I think the request we got from the County Attorney— they have requested all of those documents. We will be providing them with all of the documents that we have provided in the past and then some.

Councilmember Bynum: In the Puhi parcel, when the land use changed from ranching to seed corn companies, do you have an approved Conservation Plan prior to them grading and grubbing?

Mr. Tresler: They will have to answer that. In my opinion because they signed documents requiring it, we asked the question and they did have a Grading and Grubbing Permit. The other thing about that grading and grubbing thing is in the past Grove Farm has had overall Grading and Grubbing Permits, but they took away our ability to have that, and that was to cover everybody and small farmers because they wanted every single farmer who had a lease, whether it would be one (1) acre, half (0.5) an acre to one thousand (1,000) acres to come in through the process. Again, the process is very difficult for small farmers to do. To my knowledge, Councilmember Bynum, they did have it.

Councilmember Bynum: So Mr. Tresler, you have acknowledged that in the Puhi area...

Mr. Tresler: Yes.

Councilmember Bynum: Ranching changed to seed corn companies...

Mr. Tresler: On two hundred (200) acres.

Councilmember Bynum: We did not get a— on only two hundred (200) acres?

Mr. Tresler: Only two hundred (200) acres,  
Councilmember Bynum.

Councilmember Bynum: Why does this lease say for six hundred (600)?

Mr. Tresler: No, there are other areas.

Councilmember Bynum: Okay.

Mr. Tresler: The one you are talking about across the Humane Society— that was a six hundred (600) acre lease to the rancher, which only two hundred thirty-three (233) acres were leased to the new tenant that came in.

Councilmember Bynum: But on an adjacent parcel, the additional rancher's land was...

Mr. Tresler: We have a lot of leases all over, so I am not really sure.

Councilmember Bynum: You are not really sure.

Mr. Tresler: I am not really sure which one you are discussing.

Councilmember Bynum: I will just stay focused. Can you supply me the approved exemption for that new operation in 2008? Our Public Works County Engineer says that there is not one.



Mr. Tresler: Councilmember Bynum, again— I am going to refer you to Dow Agrigenetics, who is our tenant...

Councilmember Bynum: Mr. Tresler, you have accused me of doing this for political purposes and you said that I was wrong and that you had conservations plans, so can you supply those to us?

Mr. Tresler: Yes, we will certainly try to supply you that. The County Attorneys asked for... not those plans, I do not believe, but we will ask that question of the company. To my knowledge, they did have that in place. That is a requirement. Whether they are in the process of getting it or have it, I am sure. We will find out though.

Councilmember Bynum: You are saying that would be the seed company's responsibility and not the landowner?

Mr. Tresler: No, because we are not allowed to. We have tried... I have tried to do it and obtain a Conservation Permit. They did not allow us to do it. I just stated that, Councilmember Bynum.

Councilmember Bynum: Do you believe that the law holds the landowner responsible?

Mr. Tresler: Yes, that is why we try to make sure that our tenants obtain those things.

Councilmember Bynum: Okay. Thank you.

Councilmember Chock: Council Chair.

Council Chair Furfaro: First, I would like to apologize. I went to the Pono Kai Annual Board Meeting to talk about the work on the revetment wall that is lagging behind several years. When I got back in the building, we had a medical emergency downstairs, and then we had needs for the video. I see that we have a letter respectfully requesting a deferral. I guess that is where we are at. Am I to assume that?

Councilmember Chock: Yes, Chair.

Council Chair Furfaro: From there, I want to make sure the plan is... it sounds like it has been very stressful here well I am away. On that note, I want to make sure that we understand that information that is released and so forth here that certain members have released that on their decisions. If there is something that need to release from the body, that becomes the body's decision. If there is something that you are asking for here, you are welcomed to fill out a Uniform Information Practices Act (UIPA) form. In the meantime, if we move forward on this investigation and the dates that are laid out in the memo from the Administration, when the investigation is launched, it does not really matter who is sitting in these chairs and/or who is on the Council. The issue here is that agriculture is agriculture and the law is the law. The investigation will be launched and it will have to stand on the merits of what the investigation finds. That is the bottom line. It does not matter who is here. I just want to make sure that you understand what I am trying to summarize here because now it is ten (10) minutes until 4:00 p.m. and we are going to lose members at 5:30 p.m. I am guilty of that with what happened that I had to leave for the Pono Kai presentation. Let us move on here. The investigation, once it is launched in agreement with what it looks

like— this is correspondence that has been shared with Mr. Bynum on his research. It will stand on the merit that it stands on. End of story. Just be prepared to know that it sounds like that is the way this Council is going to go, no matter who are in these chairs. Thank you. You can continue to run the meeting, Mr. Chock.

Councilmember Chock: There are no other questions for you. Thank you for your testimony. Would anyone else like to testify on this item?

Ms. Punohu: *Aloha.* My name is Anne Punohu. I would like to make several comments. As a member of the general public, to hear this, this is a lot to hear/listen and swallow at first blush. It seems very much like, "Oh, my gosh. Are you kidding me?" But after listening to the gentleman from Grove Farm testify, I have something to say. I am returning to farming myself. I know what he is saying and if I to comply, and I have to comply within a step of myself right now, and it is hard enough for me to get off the ground. I do not want it to turn into had a "he said" because it would make it impossible for someone like me to farm. What I have seen up on the screen today is quite amazing and I thank Mr. Bynum for his due diligence. I thank the Administration for coming into the ball court and playing ball with everybody. It seems a way to get all of you to play together nicely, which I think is good. I think the person who said it the best out of all of you was Mr. Furfaro because the chips are going to fall where they may and this could be an opportunity for people to vindicate themselves. We may have the exact opposite situation here. I think that if anybody needed clarity or wanted clarity or equity, we do not want to target people. I think this is the opportunity to do that. I think that once all of these investigations are through and everything happens and the facts come out, then I think some people may be cleared and others that you did not think would have to pay some money back. But the bottom line is that the people will benefit from getting the things that we deserve, just like the TAT. This is that same situation, but I also believe it will bring some fairness back into some people's perception of this entire situation. Like I said, I want to caution all of you because he brought up a really, really important point, which is that me, as a tiny, itty bitty person, who is about to reenter farming with very tiny bits of land to farm, I do not want to have to come in for this kind of stuff. I could not do it. Let us be fair and let the chips fall where they may, but I think this is more equitable and I am glad to see people cooperating together with each other. I think that unfortunately it is happening in the middle of a political season and Mr. Furfaro is also correct again, that whoever sits in these chairs or whoever sits in the Administration, it is going to happen. I do want to thank Mr. Bynum for doing a good job investigating. Even Mel thought that he did a good job investigation, so that was good. Thank you.

Councilmember Chock: Would anybody else who would like to testify on this item? Seeing none, we will call this meeting back to order for discussion. Councilmember Bynum.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Bynum: Council Chair Furfaro just said that the investigation will be launched and let the chips fall where they may, but we do not know that. I told the Mayor a couple of months ago, "We do not have to do anything at the Council, Mayor, right?" There is overwhelming evidence that a deeper, independent look at these issues needs to happen. We are looking at just three (3) parcels and Mona has all of this work that she is going to have difficulty completing and that is just about three (3). There are forty-seven (47); this is about where agricultural dedications happen. Many people manage their transition and got

their conservation plans, hired lawyers, paid the proper taxes, transitioned from sugar into some other use, and followed all of those rules. In fact, what I see, most people did; most of the little guys that were worried about it did it because they are law-abiding people. The laws are as clear as a bell and clear as they can be. This is about whether we will do an investigation. The Mayor has said, "I will decide December 17th. I will decide then if we need to do anything more than look at these three (3)." We already know that we need to look at more than three (3). This is the tip of the iceberg. The Mayor has not acknowledged the scope of the needed inquiry. The County Attorney cannot do the needed inquiry. The Council can do it with assistance. This Resolution for an investigation would not be here if the Mayor would have decided that he was going to do one, right? Now, what happened, and I hate to say it so bluntly, is that I started asking questions, they discovered there were problems, and the Administration processed new petitions that, mark my word, will be used as a "defense" for these landowners to keep some of these agricultural things. So rather than cite them and apply the law, which is as clear as a bell, they said, "No, we will give these new permits." Public Works, on the other side, responded to every request I made. I said, "Show me the conservation plans for these three (3) parcels," and they did. They were dated in 2011. I said, "Do you have any other conservations that predate that?" They said, "No." Then I said, "Give me all the conservation plans from everybody over the last ten (10) years." They are in my file downstairs. Public Works was very responsive. What you see from that is a whole bunch of people got conservation plans and followed the law. Does it matter that others did not? To me, it does. I said, "Okay, I have to take it to the Council. You continue to do your back taxes." You will be very busy doing that, but we clearly need an independent group that has the expertise to do this inquiry and to determine the scope, and then we let the cards fall where they may. To delay until December 17th is an attempt to see that an investigation is never launched or at least not when this Council has any say about it.

Councilmember Chock: Would anyone else who would like to speak on this item before we call for a deferral? Councilmember Rapozo.

Councilmember Rapozo: Thank you. Well, I guess I disagree right up front that the Administration is not going to launch an investigation and that the December 17th request date is because of that. I just do not agree. The fact that the request for December 17th does not preclude this Council or a member, like myself, from checking on the status at any time. I think the public needs to understand that this Council has the authority to conduct an investigation, but only after a 3.17 resolution is passed by the body and only on County operations, not the private sector. We can ask Grove Farm for the documents, but we do not have any right to do that. The County now, the Finance Department or County Attorney's Office, who is conducting this inquiry, they have the right. Of course, the landowner can say, "No, call my attorney, whatever, that is their deal. That is not our deal." We are the legislative branch until we pass a 3.17 resolution, which is the requirement of the Charter.

Today, we saw some allegations. We saw some evidence. We heard a lot of comments about what likely could be happening, but as we heard from Mr. Tresler, there is always another side to the story. That is why I tried to stop this discussion from the public record because that is not fair. I know they are not watching, but listening and saying, "Wow. What really is the truth?" This is not a jury. This is not a courtroom. This is not where we hold those kinds of things. I am concerned about that and I still say that if we are discussing the allegations, possible wrongdoing, poor record keeping, or whatever it is, involving the private sector; that that should be— especially if an active investigation is going on, that should be done in Executive Session. Anne brings up a really good point about the small

farmers. We have to be careful as well. Some of these laws, as Mr. Tresler stated, was to preserve agricultural lands, but it was more than that; it was to incentivize people/landowners from keeping their property in agriculture, so back, way before we were around, the leaders said, "Hey, we have to reduce the tax rate. If these people dedicate their lands to farming, then they should be compensated in the form of a tax break," so that is why I think the law is in place. Grading and grubbing—I think many of you know my position on grading and grubbing and I think that those laws are very serious and should be complied with and prosecuted. Again, without knowing all of the facts, without having an investigation done, and without having the statements of the people, the witnesses; the fifteen (15) people that the County Attorney's Office plans to interview, it is very difficult. Imagine if the cop would just prosecute you with only his version of the story? Trust me—I have done it long enough to know that with all of the facts on table, sometimes the conclusions may be different, and that just happens a lot of times. I am very cognizant of that and I want to make sure that the investigation is done properly. Believe me, I will scrutinize that; that is just what I do. I will make sure it is done properly, but until then, it is very hard for us here to do anything until we get the report from the Administration on the investigation. I will tell you that, I, myself have introduced 3.17 Investigation resolutions that have never passed, and I introduced it because I did not get the same response as Mr. Bynum has received from this Administration. I never got something like this saying, "Hey, Mel, we are going to work with you and we are going to go after these guys." I have never gotten that and that is why I ended up with a 3.17 Investigation because I did not feel we had the support. In this case, we do and we have a letter from Mayor saying that we are going to pursue this investigation internally. I believe that is a good start. I believe that will save this County a lot of money because a 3.17 Investigation does involve the hiring of Special Counsel investigators. I am willing to live with the timeline that has been provided by the Administration. I agree with the Chair— December 17th, January 5th, November 8th, or whatever the date is; it does not matter. It does not matter whoever is sitting around this table. That is just the way it works. The timing may have been just a little off, but it does not matter who is on this table. Mr. Hooser is right; we could have a new Mayor and a whole new Council. We do not know that. Regardless of who is there or who is here, the ball will be set in motion now and that work will be done. I will respect the request. Thank you very much.

Councilmember Chock:

Councilmember Hooser.

Councilmember Hooser: Number one, I wanted to thank Councilmember Bynum. I have been working a little bit on this with him, but he has been working on this for a long, long time; many, many months—I want to say one (1) year or more, well before the Elections were on the horizon. Obviously, his research and his work has been solid because the Mayor and the Administration have looked at it and met with him, and have agreed that they want to move forward. In doing an in-depth, internal review— again, they want to ensure a thorough investigation and would not be making these statements, I do not believe, unless they believe that there was valid reason to do it. Again, their preliminary findings are that there may be irregularities. Again, I appreciate the work. I take some exception to the "small farmer boogeyman" that is put up there— not only Councilmember Rapozo, but just in general, people say, "Well, if you do this, this is going to hurt small farmers," but we are not talking about small farmers. We are talking about corporations with forty thousand (40,000) acres; we are talking about million and billion dollar companies. Why are we focused on these companies? Because these are the ones that are apparently not in compliance and they are the ones when we scratch a little bit, we find out that they have not paid their property taxes in some areas, and if we scratch a little more, we find out that they have not

gotten their exemptions. With the Pioneer lawsuit, I think it is clear that they did not get the proper Ordinance No. 808 exemptions there. We scratch a little bit and we find things and it is natural to ask those questions. The Grading and Grubbing Ordinance is serious stuff. People have died in the past as a result of noncompliance with the Grading and Grubbing Ordinance. There have been floods. There is damage to reef and near shore streams. It is serious, serious stuff. If it is complicated, then that is no excuse for not complying.

Our tax policy drives land use. We offer subsidies to landowners, in return for them putting in "real farms." The public subsidizes that and we are entitled to be in compliance with that law. We are entitled to have real farms. This is a real issue. I applaud the Administration in working together with Councilmember Bynum to take this issue forward. I differ in my opinion that if things change, either on the Council significantly or in the Administration, that this will automatically move forward. There is nothing to require the Administration to move forward on it at all. If this Council passes a resolution, that will be a document that this is part of the record that the next Council will have to vote on to withdraw or repeal. There is actionable, legal process to stop an investigation because of the complexity of it. Because it involves the Administration, employees of the Administration, past and present; major landowners; and a lot of money and possible criminal violations, it only makes sense to have an independent investigation that will stand on its own. I hope when we get to that resolution, we can move that issue forward. Thank you, Chair.

Councilmember Chock: Would anyone else like to speak on this item before we vote?

Councilmember Yukimura: Yes. I want to thank Councilmember Bynum for researching this issue. Tax policy and land use policies are very important to the proper operation of the County and of the community. At minimum, I think we are seeing that the law needs to be better structured and clearer... things need to be— well, the policy needs to be set with our goals in mind. I am seeing a need to make some amendments to the law, but also I think there is a message here that whatever laws we have has to be properly implemented and enforced. I think we are all trying to move in that direction, so I am grateful for the Administration's work and cooperation, and for the work that this Council, through the leadership of Councilmember Bynum, is also doing.

Councilmember Chock: Thank you. Council Chair.

Council Chair Furfaro: Can I ask to suspend the rules for a moment and ask Nadine to come up?

Councilmember Chock: Sure. The rules are suspended. Managing Director Nakamura, may you please come up again?

There being no objections, the rules were suspended.

Council Chair Furfaro: I will keep the question to one, Mr. Bynum, because I am one saying it is now ten (10) minutes past 4:00 p.m. Nadine, in your correspondence to Mr. Bynum, you said that at some point by November 18th, you will be at a critical point in your investigation. If I posted an Executive Session, so that the Administration and Mona can brief us on the 19th of November, are you open to that idea? Yes or no?

Ms. Nakamura: I am open to sharing what we have with the investigation, and then we could discuss what some of the policy implications would be.

Council Chair Furfaro: Again, I said in Executive Session. Thank you for answering my question. I am good.

Councilmember Chock: We will call the meeting back to order. Chair, would you like to add any closing statements?

Council Chair Furfaro: No, I think what that was my closing statement.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Chock: Thank you. I will speak briefly as well and thank Councilmember Bynum for staying the course and being determined and diligent into looking into this issue. Obviously, it has serious implications. I am happy that our Administration is willing and able to move forward in an investigation. I also want to acknowledge that it is unfortunate at times that Councilmembers feel like they are not being taken seriously or that they are not being heard. To whatever level, that causes us to have to make a louder statement in order for some of these issues to move forward. That is just a generalization of what I am hearing and feeling from others. I have seen it from a variety of Councilmembers since I have been here. My hope is that we can address some of those things. If it is time, building closer relationships, and opening dialogue, then that needs to occur. In any case, I look forward to see where this goes. Thank you again to the Administration.

Councilmember Bynum moved to defer C 2014-264, seconded by Councilmember Yukimura, and carried by a vote of 5:1:1 (*Mr. Kagawa was excused and Mr. Rapozo voted no*).

Councilmember Rapozo: I just want the record to reflect that I wanted to honor the Administration's request.

Councilmember Chock: Okay. With that, I will turn the meeting over to Council Chair Furfaro. We are moving towards a resolution, Chair. I think there is an understanding that we will move towards a deferral for that item as well.

Council Chair Furfaro: First of all, I want to ask the County Attorney to come up. Is Al here? Al, may I ask you to come up for a moment? I want to clean up the housekeeping here to make sure that I understand where we are at before I lose members.

Councilmember Yukimura: We are leaving at 5:30 p.m.

Council Chair Furfaro: Whether it is 5:30 p.m. or 5:15 p.m., we have about three (3) hours of work that I need to compress into one (1) hour and fifteen (15) minutes. I hope the discussion on the deferral for two (2) weeks can be more compressed. Al, there is an Executive Session item here that deals with Mr. Jung's ES-764. Is that time sensitive or can we defer this?

There being no objections, the rules were suspended.

Mr. Castillo: Council Chair, it is not really time sensitive, but I would like to let you know that we have deferred it from the last time where we could not...

Council Chair Furfaro: Yes, I understand that this is a deferral of a deferral.

Mr. Castillo: Yes.

Council Chair Furfaro: I am asking because we have so many pieces to do in one (1) hour and fifteen (15) minutes and that I will not have a five (5) member quorum, can this be deferred?

Mr. Castillo: I understand. Can I have ten (10) seconds, please?

Council Chair Furfaro: Yes.

Mr. Castillo: Council Chair, I will have to call Ian Jung.

Council Chair Furfaro: Okay. Why do you not make that call and I will move on with other business. I would like to get to that because I cannot go into Executive Session with only four (4) members.

Mr. Castillo: Okay.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Furfaro: Thank you. Coming back here, I have asked the "Pay As You Throw (PAYT)" people to be available. I want to get that off the agenda too. Mr. Dill is in the audience. Good. Let us read that item.

There being no objections, Bill No. 2551, Draft 1, was taken out of the order.

#### BILLS FOR SECOND READING:

Bill No. 2551, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 21, SECTIONS 21-1.3 AND 21-9.1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO INTEGRATED SOLID WASTE MANAGEMENT TO ESTABLISH VARIABLE RATES FOR THE COLLECTION OF RESIDENTIAL AND COMMERCIAL REFUSE (PAY AS YOU THROW): Councilmember Chock moved for adoption of Bill No. 2551, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Hooser.

Council Chair Furfaro: I am going to suspend the rules and ask if Mr. Dill and Ms. Fraley could come up.

There being no objections, the rules were suspended.

LARRY DILL, P.E., County Engineer: Good afternoon, Council Chair and Members of the Council. For the record, Larry Dill, County Engineer. We do not have a presentation planned today. I think we presented enough on the issue. We are just here to support the amendment that is before you and draft bill that is before you on the floor. As you know, the change there that was proposed was to

propose a ten dollar (\$10) fee for a sixty-four (64) gallon cart and an eighteen dollar (\$18) fee for a ninety-six (96) gallon cart at the implementation of "Pay As You Throw," July 1st. That proposal, compared to what our current Residential Refuse Collection Assessment generates an estimated two million seven hundred forty thousand dollars (\$2,740,000), it would generate approximately two million nine hundred ninety thousand dollars (\$2,990,000). Those additional funds would help us to offset anticipated increases in cost and waste diversion programs, which we anticipate would occur due to increased recycling happening because of the Pay As You Throw program. I am happy to answer any questions that the Council may have.

Council Chair Furfaro: We want to go through this quickly. Let us see if there are any questions from members while the meeting is open to questions. No questions? Thank you very much. I will call the meeting back to order. Is there anyone else that would like to talk on this Pay As You Throw program? No. We will get you home on time, Larry. Okay. I will call the meeting back to order. Members, discussion?

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Yukimura: I will be very brief. I believe this Bill is a step toward a more sustainable Kaua'i. It will include incentives for recycling and kind of change that we need in order to have a sustainable community, so I will be voting in favor of it.

Council Chair Furfaro: Further discussion? Mr. Rapozo.

Councilmember Rapozo: Thank you, Mr. Chair. I will not be supporting this as I stated at the Committee Meeting. Pay As You Throw is a component of a much bigger system of curbside recycling. Yes, it is a step, but I believe that piecemeal is not the way to go. This is just increasing the fees again for our people. There is no companion program to assist the people with recycling. When you see Pay As You Throw in other jurisdictions, you have the different barrels for paper, glass, and plastic. We are trying to do things piecemeal and I do not think that is the proper way. The end result is that people will be paying more for their trash, and some will go with the smaller can, but I just cannot support anymore increases in fees. Thank you.

Council Chair Furfaro: Mr. Hooser.

Councilmember Hooser: Chair, I will be supporting this. I think it really offers the community some great possibilities for the future. It allows people to lower their trash fee and all of the indications and studies have shown that the great majority of people will take advantage of it, so there are actually monthly or annual costs will be decreased and will cause us to increase recycling. It is a "win-win" on those points and I believe the majority of people in our County want to move forward, far more aggressively than we are, but this is an important step. Some would say that it is a small step, but I would say it is an important one in that direction, and I believe the majority of people in our community will embrace it. I applaud the Solid Waste Division for putting it forward. Thank you.

Council Chair Furfaro: Mr. Bynum, did you want to speak?

Councilmember Bynum: No.



Council Chair Furfaro: Okay. On that note, I think previously I gave my commentary about the fact that at the end of the day, before we start spending more money, we are trying to reduce the actual exposure that we have from the General Fund. I think this is not the entire answer, but it is a good start. Roll call vote, please.

The motion for adoption of Bill No. 2551, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chock, Hooser, Yukimura,	
	Furfaro	TOTAL – 5,
AGAINST ADOPTION:	Rapozo	TOTAL – 1,
EXCUSED & NOT VOTING:	Kagawa	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Furfaro: My notes show that Councilmember Yukimura would like to make a presentation on the Bill No. 2556. Is that what you want to do? Larry, thank you very much for coming over. Let us go to that item right now, so that we can get some of these tax bills and people moving along. Could you please read Bill No. 2556?

There being no objections, Bill No. 2556 was taken out of the order.

Bill No. 2556 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Reinstating the Permanent Home Use Tax Limit*)

Council Chair Furfaro: On that note, I am going to give the floor to Councilmember Yukimura. You have a presentation for the body and the public.

Councilmember Yukimura: Yes. It is very brief, Chair.

Council Chair Furfaro: Go right ahead.

Councilmember Yukimura: Can we turn off the lights? Thank you. I just wanted to take an overall look and put all the work we have been doing on Real Property Taxes in context. I think it is really important to keep in mind what the main purpose of property taxes is. We would do well to remember how government started. People in the “Wild West” wanted a school or they later wanted electricity and they banded together, pulled their money, and their labor sometimes to meet the common need for the common good. Councilmember Rapozo himself said restoring the cap, which is what Bill No. 2556 proposes to do, and not increasing fees, would result in curtailed services. He did not say what services. Maybe we would not add another beat to Kapa’a’s police force, not provide Kaua’i bus services, not work on affordable housing, or lower the Host Community Benefits to Kekaha. People are advocating the cap without really thinking about what the consequences are. The only reason that this cut in services has not happened is because the majority of this Council made the hard decisions that the services are needed to continue. Yesterday, I walked Puhi Road with Dennis Esaki and Karen Ono, who are two (2) users of that road, and that road is in terrible condition. The citizens are furious that it will take so long to fix it, even though it will start next year, and I know Public Works has been working hard on it, but we need to consider that we are in this problem with Puhi Road because we have “kicked the can down the road.” We have not “bit the bullet” and we have not raised fuel taxes. We finally increased the vehicle weight tax and yesterday as we observed the traffic on the

road, there are huge trucks that go on the road and the vehicle weight tax is something that allocates the financial burden according to the users and who creates the biggest impact on the roads. It is hard to raise fees, but without doing it, we cannot provide the services that our community so desperately needs.

There is a certain luxury in taking a minority position. You can look like a hero without your position actually coming true and people experiencing the real impacts of your position, and that is because the majority has taken the hard knocks to make sure that services continue and that we prepare for the future because the other purpose of Real Property Taxes is to prepare for the future. It is not only about cutting waste. I was reading my Kaua'i High School 100th Year Centennial Booklet and in 1973, because of the energy crisis, free bus service was offered, and some people remembered that you could not fill up gas at any old time... even license plates on certain days and odd on other days— anyway, when gas gets to five dollars (\$5) or eight dollars (\$8) per gallon, we will need a well-functioning bus system to help our families save money and we need to be looking ahead in preparing for the future. Not restoring the tax and sometimes raising fees is necessary and it is not possible just to cut waste and be able to operate.

As Councilmember Kagawa found when he proposed to cut overtime and travel across the board, and then found out that some of the overtime, especially in the Police Department, was not discretionary. It just came because we have holidays. He also found out that cutting travel of small departments like Housing and Transportation would prevent them from lobbying at the Legislature for key measures that affect their mission of providing affordable housing and affordable transportation. There is not such a thing as "free lunch." Councilmember Chock talked about in his leadership coaching about being clear about our values and about basing our actions on our values. I want to show that we have tried to setup our Real Property Tax system based on values. One of the values is that the system produces enough to support services; it produces enough to prepare for the future. Real Property is based on property value, but we have adjusted that basic principle— well, it is based on property value and on the principle that everybody does their fair share and that it be fair and equitable. One of the main problems with the cap is that it was not fair and equitable. Somebody earlier today said that... Glenn, I think, "It is so logical that the people who pay more for their property later in the years will pay higher taxes." Well, it is not that logical to the people who are paying higher taxes when they are in a neighborhood where everybody with the same valued homes... some are paying less and some are paying more. I just got a complaint from a person in 'Ele'ele Nani who said he bought in recently and how come he is paying so much money, more than his neighbors are? Fair and equitable is one of our principles. Then we have adjusted it to implement certain policies like protecting local homeowners. We have done that with the homestead class and with the provisions for the lowest rate. Pardon me?

Councilmember Bynum: Homeowners' exemptions.

Councilmember Yukimura: Yes, the homeowners' exemptions. We also provided for larger exemptions for elderly and for low-income people. We have incentivized affordable housing. I cannot believe how many people have a second unit on their property and they have been renting them for years to either family members or to nonfamily members at affordable rates. Our Long-Term Affordable Housing exemption really helps them. Excuse me— it is the homestead rate that they will get, so that really helps them. There is some reflection of ability to pay. Then...

Council Chair Furfaro: Excuse me. Before you go to “and then,” you said this will be only a few minutes and I am giving you the time to do that, but we need to keep it within ten (10) minutes. Thank you.

Councilmember Yukimura: Yes. I am concluding. Thank you. The thing is that all of these have to be balanced, so it gets quite complex. You cannot just pay attention to one or two of them. That is why our system people say is pretty complex, but it is complex because we are trying to follow some of our values and include compassion in this. I know there is a fear of other increases into the future. People want certainty, but you know what? Life is not concern, whether it is water rates, food prices, and other things like that. We have tools if people will stay involved and the Council who is elected, who are concerned and responsive; we can lower tax rates and increase exemptions. There are all of those tools and the democratic process is designed, so those tools can be used to keep our Real Property Taxes in proportion. If we get our TAT, we can keep those Real Property Taxes stable by lowering rates and increasing exemptions. I just want to end by recalling Stanley Dotario’s testimony. He said, “It is easy to talk, but when you are not responsible, as the coach is, to actually making those live decisions, one has to be cognizant of the people who are sitting in this position and have to make the hard decisions and really make the tough calls in order to produce a fair and balanced property system that provides enough money for us to continue services and prepare for the future.”

Council Chair Furfaro: Thank you, JoAnn. Just a reminder, we are on Bill No. 2556. I am going to recognize Mr. Rapozo now.

Councilmember Rapozo: Thank you. JoAnn said she was going to be brief and she was not. Much of her testimony was directed at me, but let me just start off where she ended about Mr. Dotario’s testimony. I also asked him, “If your taxes had gone up five thousand dollars (\$5,000) or ten thousand dollars (\$10,000), will your testimony be different today?” He said, “Yes.” Let us cover all. JoAnn’s first slide was accurate: “to provide adequate funding for our County services.” I do not appreciate— it seemed like she was speaking for me in where we are going to cut— police beats and all these essential services. Obviously, I am not an idiot. I am not going to suggest cutting any essential service. “People who support the cap are not thinking.” Really? I am thinking. Today, there are bills here today that provides tax relief to the tune of seven hundred fifty thousand dollars (\$750,000) or whatever it is, which really means that we did not have to raise taxes if we can give it back right now. We are here today because we removed the cap. Was the cap the best system in the world? Absolutely not, but removing that created a whole bunch of problems that requires seven (7) or eight (8) measures to try to fix. Is that efficient? No, that is not efficient. We spent a lot of hours on this. Tax increases should be the last resort, absolutely last resort. Cut spending. Do we need four (4) Human Resources (HR) Managers in HR with nearly six (6) figure annual salaries plus benefits? Do we need two (2) executive-level managers in our Civil Defense Office, which has four (4) people? Do we need these countless numbers of studies? Puhi Road is not paved because we decided to put Puhi Road in a program where it is going to have “Complete Streets” with the medians, planters, and all of that. Can we not just pave the road? I agree, JoAnn; Puhi Road is a mess. That is embarrassing and that should be have been done a long time ago. The luxuries in life here— did we need to fund the marathon? I am talking about in the last few years because we did not get here overnight. Did we have to give the Kaua’i Marathon hundreds of thousands of dollars over the last few years, private enterprise, for profit? Sister cities? Do we have to have that many cars in the lot at the County building? One (1) car per employee? Do we have to have a system in place where you have so much in lease payments and fuel payments on cars that we

do not even need that many cars? What I am talking about is that we have to start getting around the table and look at how to cut spending. It is very easy to sit here and talk about how we are going to raise revenue. Do we need to have everybody assigned one (1) car? Can we not just share? There are many ways that this County, if we wanted, look at cost-cutting. At the end of the day, we look at where we need to "enhance the revenue," as it is called. But do not come here and start flying away and raising taxes, and then not match it on the other side. I think you have to have a balance.

Mr. Kagawa is not here, but this effort was really to put back everything where it was, so we can have the discussions. Now, we are going to have a bunch of other measures in place to try to correct the problems. Councilmember Yukimura says how the cap is no good, but what is going to pass today is a cap; a cap that will limit everybody's Real Property Tax bill to no more than two hundred fifty dollars (\$250). That is a cap. "C," "a," "p"— "cap." My cap is no good, but hers is. I can respect that, but a cap is a cap. It is unfortunate that we ended up to where we are at and caused a lot of concern, problems, and a lot of stress for our community. It caused a lot of stress for a lot of the old timers here with fixed income or retirees. I am glad that Mr. Hooser introduced, that I planned to support today because it is better than nothing, but at the end of the day, I believe we should have restored the cap. I do have an amendment, but I do not think it is even worth floating, Mr. Chair. It was to put a sunset date on Bill No. 2556 of 2017. I really do not know if it is worth it. I guess I should introduce it.

Council Chair Furfaro: This is in reference to Bill No. 2556?

Councilmember Rapozo: Yes. All it says, "Ordinance will take effect upon its approval and shall be repealed on June 30, 2017."

Mr. Sato: Chair Furfaro, we need a main motion.

Councilmember Rapozo: Okay. I will wait for the main motion. Anyway, I will plan to introduce that to satisfy some of the people who are concerned that this is going to go into perpetuity. The reality is if we cannot get a tax system in place; a permanent, fair, and equitable tax system, then the cap is the best result or best solution. Thank you.

Council Chair Furfaro: Mr. Hooser, and then Mr. Bynum.

Councilmember Hooser: Thank you, Chair. I find myself philosophically between Councilmember Rapozo and Councilmember Yukimura, where I think we should be tightening our belt to help balance the budget. Frankly, they are both very, very tough decisions and very hard to do. One of the hardest things to do is raise taxes and the other thing is to lay people off. I was sitting here as the discussion was moving forward, trying to think if I ever voted against a budget-cutting proposal that was proposed during the budget and I do not believe I did. I really do not believe any budget-cutting proposals were made that this body did not support. I cannot remember correctly. I certainly do not remember anyone identifying positions where live bodies, people, and families depended on their mortgages and bills to be paid that were in those positions and they would be laid-off. As much as we like to think about it and sometimes talk about that, I do not believe there were any significant proposals to lay people off during the last budget. If I remember correctly, and I may be wrong, but I do not remember voting against any budget cuts. It was just a very limited number that was proposed. Several of us proposed some. It is hard. It is easier to want to cut costs and it is a lot harder to actually cut costs. Councilmember Chock and myself is cosponsoring a

workshop that the Administration will be meeting and presenting their cost-cutting and efficiency measures, which will also be November 6th. It is going to be a public discussion and the Administration can come and tell us what their plans are. Speaking specifically about the cap, and before I forget, I appreciate Councilmember Rapozo's acknowledgment of me sponsoring the tax relief that we are going to be voting on today, but I have to give credit to where credit is due with Councilmember Bynum, as the initiator of that, and I joined him on that. It is a significant measure and we will talk about that in a second, but the cap that is on the table now— as much as I appreciate the value of symbolic votes, I think at the last Committee Meeting, both Councilmember Kagawa... I will not speak for either one of them, but I believe that it was acknowledged that that Bill was not ready to be passed. It is not ready for primetime. It did not take into consideration all of the other exemptions that had been in place that interacted with that and did not take into consideration the significant budget impacts, and it just was not ready. To not vote on that Bill, I believe, was a responsible decision, but we could not support it. My comments then, and I will repeat them now, is that I would encourage the Councilmembers to go out, if they want to continue that discussion, and prepare a bill that works that takes into consideration all of the impacts that would happen through that measure, determine the budget impacts, and then put it on the table and talk about it. I am not happy with the system we have now. I think it is too complicated and too many moving parts, but we do not have any options that are being presented at this point that are doable in my opinion. I will not be able to support this cap as it moves forward. Thank you.

Council Chair Furfaro:

Mr. Bynum, you have the floor.

Councilmember Bynum: The removal of the cap was one of the things that upset some people. Other people were here were upset because they owned vacation rentals and their taxes went up. We do not have a proposal to change that. In the end, people were upset about the cap because we removed it and did not deal with the six hundred (600) or seven hundred (700) people that we knew were going to be hurt that were predicted and identified, and we put proposals forward that would have kept that from happening and they were not excepted, so just to be clear about that. The cap was very well-intended and was intended to be a temporary measure. It remained in place for ten (10) years and it caused huge inequities. Its removal led to curing most of those inequities, I think five thousand (5,000) people received tax reductions when the cap was removed. They were the people who were paying way too much. That was the inequity. I think the cap certainly... the best thing about it was certainty. I am not going to support this proposal now, but it does not mean that we would not be open to things in the future; however, I think JoAnn's analysis is courageous and it is also true if we fix some of the anomalies that we caused, both the Tax Department by making some errors, by individuals making errors, the Council making errors, that we are very close to a system that is fair and equitable. I hope in future meetings we outline it and say, "Hey, if you have this home and you have this use, here are your taxes." I think when you see it all laid out, people are going to say, "Well, that is pretty reasonable."

Council Chair Furfaro:

Councilmember Chock.

Councilmember Chock: Thank you. I just want to repeat what I said last week, which was just thanking Councilmember Rapozo for putting this on. I think the intention here is to look at all options, which is what we have done. After intensive discussion with our Director of Finance, we find ourselves at a place where this will be the most difficult road to take, and to go back would cost us a lot of money in doing so. I agree with Councilmember Bynum, that I think moving forward, we certainly want to keep this option to have a discussion and continue to

see what we might do, as I have asked for some guidance from our Tax Department on what things will we need to have in place in order to go back to a system such as the cap. Until we can get that information, I just cannot support moving forward on this at this time. Thank you.

Council Chair Furfaro:

JoAnn?

Councilmember Yukimura: Thank you. I want to be clear that I was not speaking against my colleague, but I am speaking against the position of restoring the cap. By the fact we have this seven hundred fifty thousand dollar (\$750,000) money bill that we have money to give back is not true. We are lowering our reserve and we are still not fully funding our pension. Our reserve is already low. It has caused one (1) bonding company to lower our rating and we are making it even lower. I appreciate Councilmember Hooser's reminder that the actual version of Bill No. 2556 has a six million dollar (\$6,000,000) implication, so that our reserve would be down to one million dollars (\$1,000,000) or two million dollars (\$2,000,000) if this were to pass. It is just not workable at all. Also, it would have reversed the lowering the taxes for the five thousand (5,000) families that did get lower taxes by the removal of the cap. Bill No. 2556 really is not workable. I just want to say that I believe we should cut spending. I appreciate that the Administration is looking at a car pool system that will address the issues of County car use. Already, there has been a six hundred eighty thousand dollar (\$680,000) reduction in overtime. As far as HR is concerned, and I believe Councilmember Rapozo and Councilmember Kagawa voted against the creation of the HR Department...

Councilmember Rapozo:

Councilmember Kagawa was not here.

Councilmember Yukimura: Okay. Thank you. I stand corrected. Councilmember Kagawa was not here. Still, the HR Department was designed, so we can begin to address some of the incredible personnel problems that we have in the County that is costing us a lot of money, in terms of Equal Employment Opportunity Commission (EEOC) complaints, sexual harassment, and those kinds of things, which were not addressing with a much decentralized personnel system. In that respect, it could very well cut costs for us. I think cost-cutting proposals need to be individually considered and I am sure if they are viable proposals, we will vote to do that. I do not believe they should be used as a generalized reason to restore the cap.

Council Chair Furfaro: If everyone is done speaking, I will go now. Thank you everyone. I am just flattered how many people take comments as to the benefit of the cap. I was the one that introduced the cap. It happened eight (8) years ago and I thought in eight (8) years, we would be able to come up with a new, total tax package and we did not. That is where the problem is. The discussion about the cap—if the Administration was not ready, we should have said, "Let us formulate a temporary piece for the cap, maybe five percent (5%), but in fact, we will have a new tax bill in front of us within the next twenty-four (24) months." It did not happen. We do piecemeal stuff. Mr. Bynum is absolutely right. I never introduced a cap to say it is permanent; I introduced the cap, so people had predictability and they knew what their cost was going to be as they operate going forward. We are not at that particular place right now. We often talk about today's discussion. I have always thought of taxes as being related to a value of services. I never heard it related to compassion. You pay and you expect, as a customer, a certain level and a certain delivery of services. That is what you place a value on; what you get for your money. We have a long ways to go. I have to say, Mr. Rapozo, that my focus is not necessarily on "Band-Aiding" this thing again with another amendment and so forth. We need a new tax bill because right now we

have a mummy walking around. He has Band-Aid and gauze wrapped all over him. This guy is like the living dead. I want to also remind everybody that our role here in corporate business, as we are a corporation called the County of Kaua'i. The other day, I gave Ken and Glenn a summary sheet of all the increases we had because of Charter Amendments and all of the increases that we had that were mandated to us. He wrote an article that said the County Council raised the taxes the most because we had the biggest growth. What a sad interpretation. You cannot let a balance sheet scare you. Here I share information with him— what do I have to do when I put a sheet like that? Fill out a UIPA form, wait your ten (10) days, and you will have a narrative that comes to you. The County Council had increases as it related to this being an election year. We hired eight (8) new people to run the Election. You have got to look into these variables and at least give us the benefit of understanding what those pieces are. I will not give up talking story with Glenn or the others, but I blame The Garden Island too because they never called to see if that was true. They put it in an editorial. That is very unfortunate when we are trying to clear the process here. If the opportunity prevails, we need to revise and redo our entire tax piece, and it needs to be tied to a delivery of services that people value and feel that they are paying the appropriate amount. You want to repave the roads every seven (7) years? It is going to cost this much more. If we do it every ten (10) years, this is where we stand. If you want to add Complete Streets, then put some of that money in a bond float, so we have the money that we can pay for it to make that improvement. In the meantime, pave the road. I am sorry. I have got my corporate hat on now that I have spent thirty-nine (39) years. The Sheraton and Princess Kai'ulani combined probably had a bigger operating budget than the County of Kaua'i right now. We, as leaders, need to look at it, and as good leaders, we need to have these discussions. We need to be able to negotiate with each other skillfully, especially through tough situations, and that is where we are at right now. That negotiation has to include the Administration. On that note, let us call for the vote.

Councilmember Yukimura: We need a motion.

Council Chair Furfaro: I spoke without a motion. I am sorry. Can someone make a motion?

Councilmember Bynum moved to receive Bill No. 2556 for the record, seconded by Councilmember Yukimura.

Council Chair Furfaro: We had our discussion already. I am sorry I had it reversed. Roll call vote, please.

The motion to receive Bill No. 2556 for the record was then put, and carried by the following vote:

FOR RECEIPT:	Bynum, Chock, Hooser, Yukimura,	
	Furfaro	TOTAL – 5,
AGAINST RECEIPT:	Rapozo	TOTAL – 1,
EXCUSED & NOT VOTING:	Kagawa	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Furfaro: Thank you very much. Can we move to the next item? Just for housekeeping purposes, Al, we can defer both Executive Sessions for two (2) weeks, so we will not go there.

Mr. Sato: Chair, do you want us to take action on the two (2) Executive Sessions for deferral?

Council Chair Furfaro: Yes. That is a good recommendation.

There being no objections, ES-764 and ES-766 were taken out of the order.

EXECUTIVE SESSION:

ES-764 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide a briefing regarding EEOC Charge Nos. 486-2013-00066, 486-2013-00345, 486-2013-00047, 486-2013-00343, 486-2013-00005, 486-2013-00342 concerning the County of Kaua'i, Kaua'i Police Department, to obtain settlement authority, and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item: Councilmember Yukimura moved to defer ES-764, seconded by Councilmember Bynum, and carried by a vote of 6:0:1 (*Councilmember Kagawa was excused*).

ES-766 Pursuant to Hawai'i Revised Statutes Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing and request for authority to settle the claim against the County by Farmer's Insurance Hawai'i, Inc., filed on June 24, 2014, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item: Councilmember Yukimura moved to defer ES-766, seconded by Councilmember Bynum, and carried by a vote of 6:0:1 (*Councilmember Kagawa was excused*).

Council Chair Furfaro: Now, let us go to Mr. Bynum's Resolution. Since everything is coming back in two (2) weeks, let us defer that as well.

There being no objections, Resolution No. 2014-45 was taken out of the order.

RESOLUTION:

Resolution No. 2014-45 – RESOLUTION ESTABLISHING A COUNCIL INVESTIGATIVE COMMITTEE TO INVESTIGATE THE IMPLEMENTATION AND MANAGEMENT OF SECTION 5A-9.1 AND SECTION 22-7.1 THROUGH 22-7.27, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE DEDICATION OF LAND FOR AGRICULTURAL USE, AND GRADING, GRUBBING AND STOCKPILING, WITHIN THE COUNTY OF KAUAI: Councilmember Bynum moved to defer Resolution No. 2014-45, seconded by Councilmember Hooser.

Council Chair Furfaro: I think someone wanted to speak before the second for the deferral was made.

Councilmember Bynum: I am sorry.

Councilmember Bynum withdrew his motion to defer Resolution No. 2014-45, Councilmember Hooser withdrew his second.

Council Chair Furfaro: Okay. Mr. Rapozo, you now have the floor.



Councilmember Rapozo: Thank you, Mr. Chair. The Administration has requested a deferral to December 17th. I think we deferred the communication for the update for two (2) weeks and I think you also said that you were prepared to do an Executive Session posting for November 19th.

Council Chair Furfaro: Yes. I am going to do that as the Council Chair post an Executive Session item in concurrence with them on November 19th.

Councilmember Rapozo: I guess what I am suggesting is that we honor the request of the Administration for the December 17th deadline. We will have two (2) more opportunities to get updates between now and then with the sitting Council because Mr. Bynum is concerned about who is going to be here on the 17th of December. I do not think it matters, but if it is, we will still have two (2) other opportunities to get updates from the Administration; once in two (2) weeks and once on November 19th. I appreciate the withdrawals for the discussion, but I just want to have discussion on that, if possible.

Council Chair Furfaro: Mr. Hooser.

Councilmember Hooser: Chair, we talked a lot today about this issue, but we never really spoke much about the Resolution itself, in terms of how it would work, what we would look at, and the mechanics of it, and I believe that we need a discussion on that and would support a two (2) week deferral.

Councilmember Yukimura: As I inappropriately asked questions during the communication time, I wanted to now focus on the Resolution and the investigation itself. The Council has never done this before and I remember even when we considered it, previously, in respects to the Planning Department. We were not clear about whether we could delegate the power to a hearings officer, whether we needed a court reporter, what the requirements of the record were, and all of these kinds of things. I do not want to wait to do that until December 17th. I would rather we use this "downtime," so to speak, to understand those things. I think in the end, it will make for a better Resolution because there may be some appropriate amendments to it. I would like, in two (2) weeks, three (3) weeks, or whatever it is, to be able to have Mona Clark give us some guidance about how to do that. If there are other County Councils that have engaged in this kind of investigation, we might want to check with them, so we have a better idea of the time requirements, the staffing requirements, and the costs, which will influence how we want to scope this effort, if we even choose to do it at all.

Council Chair Furfaro: Okay. Mr. Chock, and then Mr. Bynum.

Councilmember Chock: I just have a clarification. What we would be asking for is deferral for two (2) weeks in order to get more information, but not necessarily come back in two (2) weeks to determine the Resolution. That may come at a later date. Is that what your intention is?

Councilmember Yukimura: That is how I am seeing it.

Councilmember Chock: Okay. That is fair.

Council Chair Furfaro: Mr. Bynum.

Councilmember Bynum: We are right on that track. Mona has already offered an opinion and suggested some minor changes that are in the works. I thought for time, we were just not going to get too far with this, but that is exactly

the intent, to layout process. We are in dialogue and we have documents, so a two (2) week deferral would be appropriate.

Council Chair Furfaro:

Okay. Mel?

Councilmember Rapozo: Again, we are not even sure how we are going to do the investigation. That should be in order first. I think that was the issue that came up the last time with my request. I think more importantly is that the Administration is doing an investigation right now. This costs money. Why would we go and do a parallel investigation when the Administration is doing one right now, and we hope to get results back shortly, relatively speaking, in the time that they expect the investigation to be finalized on November 18th, just a little over one (1) month. Why would we even go down this road that is going to incur costs? I am just irritated about constantly spending these moneys where we already have one going on right now. To defer for two (2) weeks to find out how we are going to do an investigation, to me, does not make sense. That should be a policy that is in place anyway. I believe that it can be done. I think I have introduced a couple of these things, but the fact of the matter is that no one ever wants to do it, but never had we had a situation where the Administration was doing an ongoing investigation at the same time. This makes no sense to me. You are going to have the Council doing one and the Administration doing one. Like I said earlier in the break, if the Administration comes back with a "flubbed up" investigation, then we address it at that time and hold those people accountable, but I do not believe that will happen; not in this case. Obviously, it is the pleasure of the Council, but these things take time and it just wastes a lot time when you are having the discussion every two (2) weeks. Let us wait to see what the Administration has, and at that point, we can take action at that point. I am not saying to receive it or kill it, but to just wait until we get response back from the Administration. I think that is the most feasible and practical thing to do. Thank you.

Council Chair Furfaro:  
speak. Go ahead.

JoAnn, this will be your second time to

Councilmember Yukimura: I think Councilmember Rapozo makes a lot of good points, but in asking for this kind of information, I am not assuming that we will move ahead with the investigation. I am just thinking that we could use this as an opportunity to flesh out this power that we have, so that if and when the right time comes, and it might be with this situation or may not, but we actually have a good idea of how we will implement the process and what kinds of costs we are looking at. It may very well be that at the end of this particular proposed Resolution, we decide that the Administration is really moving well on it and given the amount of time and cost that we fleshed out, it is not a good choice to make. Every time a 3.17 Investigation has been proposed, we never know the answers to very key questions about how we would actually do it if we voted for it. I am thinking that it is a power that we should use in certain circumstances and we should know how we are going to do it, so let us use this opportunity to figure that out at least.

Council Chair Furfaro:

Okay. Councilmember Chock.

Councilmember Chock: I just have one more question. I am still supportive, but I do understand that there are a lot of things to get taken care of. Is two (2) weeks enough time, is the question that I have, in order to get there?

Council Chair Furfaro: Mr. Bynum, this is your second time speaking.

Councilmember Bynum: I did not intend to, but we could of if we would have had time and not talked hours about process, taken deferrals, and recessed when we did not need to. We could have gotten to the dialogue today, but this is a simple, straightforward deferral. We already have a County Attorney's Opinion on this. We need to digest it and discuss it. We can do that in two (2) weeks.

Council Chair Furfaro: Mr. Hooser, your second time.

Councilmember Hooser: Again, I will just again speak in support. There was no question that this issue would not be on the Administration's radar screen or agenda in the fashion that it is now without the work of Councilmember Bynum and this Council. I believe that it is our responsibility not to just put it on hold. A two (2) week deferral—we keep the conversation going. It is the nature of the dynamics between the Council and the Administration that us doing our work will motivate and ensure, in my opinion, that the Administration stays on task also. If we, all of a sudden, turn our attention elsewhere and stop paying attention to this issue, everybody is busy and I would be a little bit concerned that the Administration may not be as diligent as they would be, but if we talk about this next week and start "lining up the ducks," we do not have to make a decision, but we can certainly, as Councilmember Yukimura has explained, learn more about how the process might work and we could be prepared to take that action if, in fact, we decide to do so. Let the Administration work on their path. We are not duplicating anything. It is a separate path. Thank you.

Councilmember Yukimura: I have a suggestion.

Council Chair Furfaro: Why do you not hear my suggestion first?

Councilmember Yukimura: Sure.

Council Chair Furfaro: - Because I think I am awake at the switch right now. I am sorry I was not here for your two (2) hours of dialogue, and I knew what was talking about with recesses and so forth. Let me share my summary because I want to summarize this, so we can take public testimony because this is not a deferral item, which we could have bypassed public testimony. In a memorandum to Mr. Bynum, from the Administration, they feel that they would be done with a primary investigation on the 18th of November. I have asked Nadine if we can have an Executive Session briefing on that progress. She acknowledged it. That is my responsibility. I will write for a new item, as the Chair, to post an Executive Session. This discussion is about item C 2014-264, which was deferred for two (2) weeks, and that will come back on our calendar on October 22nd. What was not coming back yet is the Resolution that accompanies that Communication. That is the discussion right now. Should both the Communication and the Resolution come back or should we wait for the primary report and address the Resolution afterwards? I will take testimony on that. Is there anyone who wants to speak?

There being no objections, the rules were suspended.

Ms. Punohu: Aloha. Anne Punohu. "Cart before the horse; horse before the cart"—I have to think about that for a minute. I understand what Mel is saying. We have got cooperation right now. But I also

know what JoAnn is saying and I agree with her. I also agree with what Gary is saying, which is that you cannot always guarantee that it is going to happen in the future. For me, I see this as a future legislation. I know that you guys have tried a bunch of times to do this, but we have not been able to do it. This time, I think I am in agreement of the Resolution. Yes, it is nice to have cooperation right now, but this will also help in the future because I know that grading and grubbing has caused so much heartache and problems, and I think that while the ball is in the court, it should be played, regardless of whether you have a cooperative player on the other side of the court at this time. That is my opinion. *Aloha*.

Council Chair Furfaro:  
wishes to speak?

Thank you, Anne. Is there anyone else who

ROBERT GIRALD: Good afternoon, Council Chair and Members of the Council. My name is Robert Giraldo. I am a resident of Puhi. My thought on this is that I believe that with the commitment that you have had from the Administration, I think you should allow them to proceed, rather than sort of be concerned and second guessing what will or may not happen. I think that your idea of bringing the Council back in an Executive Session is to have an update, which would give you ample time to decide if you need something or if you need some kind of rules similar to a contested case or something of that sort. I do not think it is a magical thing to decide of what kinds of proceedings you would have. I think that there is experience in other areas where similar proceedings have taken place, but I think in as a good faith effort, I think it is best to give the Administration the chance to do their work and come here and give you that update. If you are not satisfied, then follow through with what is necessary. I think good faith is something that is necessary right now. Thank you.

Council Chair Furfaro: Thank you. Okay, I am going to call the meeting back to order. I will go one more round for everybody. I am trying to follow the rules of speaking twice, but JoAnn, you can have the floor one more time.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Yukimura: Thank you. If we defer only the Communication and not the Resolution, I do not believe that a discussion of the 3.17 Investigation procedures would be relevant under the Communication because if you see it, it is about an update on the County Attorney's investigation. It does not mention the 3.17 Investigation at all. If we want to talk about...

Council Chair Furfaro: Let us talk about what is on the table. Mel, would you clarify what is on the table?

Councilmember Yukimura: Well, the Resolution is on the table, Chair.

Council Chair Furfaro: The Resolution is on the table, not the Communication. You are talking about the Communication.

Councilmember Yukimura: No, I am just saying that deferring the Communication alone without the Resolution will not allow us to talk about the procedure and process of a 3.17 Investigation. I understand the concern that we might go into the substance of the proposed purpose of this 3.17 Investigation, which I feel like we have agreed to wait for the Administration. Speaking of good faith, if we do defer this in two (2) weeks, then there should be a good faith agreement, but we are not going to be discussing Grove Farm again. We are going

to be discussing the 3.17 Investigation process, so that we understand it better and we are better ready, should we decide to use it in December or at any other time, we are much more ready because we know what will be involved, what is required, and what the costs will be.

Council Chair Furfaro: Mr. Chock?

Councilmember Chock: Sorry, I have more questions than answers here, but the question would be would it be fair to send this Resolution to deferral later and put another thing on the agenda, maybe a communication to inform us on the potential Resolution, if that is what the intention is?

Councilmember Rapozo: Thank you. I am glad we had this third round, although I think this is only my first or second one.

Council Chair Furfaro: Hey, that is fine, but it is my generosity. You have the floor.

Councilmember Rapozo: I appreciate that. I think Mr. Chock hit it right on the head. That is exactly what I had written down. Procedure and process for a 3.17 Investigation is not related to this issue. It is a broader issue and involves all 3.17 Investigations, so why would we use this as the vehicle? If we need to fix that, I am surprised that it has not been clarified since the last time that question was brought up. That is an issue that has to be cleaned up for all 3.17 Investigations, not this one. We do not need this as the vehicle. I would agree with Mr. Chock. You defer this item and I do not even think it needs to be an item on this floor. I think it is just something that the Chair and the County Attorney's Office need to work together on figuring out what the process is. Why would we have that on the Council floor? That is an Administrative issue. That is for the Council. We are following what the Charter mandates, but I do not think we should keep this on the agenda to discuss how we are going to do 3.17 Investigations using this matter. That is totally off track. I agree. We should post another item if you want to have that discussion, but not use this item as the vehicle to determine policy for 3.17 Investigations in general. Thank you.

Council Chair Furfaro: That is what I just told Scott, which is to be prepared that the Chairman would talk to the County Attorney about posting procedural issues about a 3.17 Investigation. For your last time around, Mr. Hooser, and then Mr. Bynum.

Councilmember Hooser: Chair and Members, I do not believe that having another discussion on the Resolution is going to interfere, preclude the Mayor's work at all. I believe that we started a discussion here and no harm and only positive things, in my opinion, could come from keeping it on the agenda, and two (2) weeks from now having a further discussion; discussing the mechanics of how it might work and discussing issues that we may not have discussed today. I am not anxious to talk about Grove Farm any more than anyone else is, but the thing on the table that the Administration is primarily focused on is the three (3) properties, and the Resolution— this is potentially a much larger scope. Anyway, I just believe that keeping it on the agenda will not interfere or preclude the Mayor or the Administration from doing their work; not one little bit. It will just afford us another opportunity for some thoughtful and meaningful dialogue on the issue. Thank you.

Council Chair Furfaro: Mr. Bynum.

Councilmember Bynum: We had a recess earlier where I agreed to not to continue my line of questioning with Mona and to bring this to a conclusion for time constraint reasons, and that the Resolution and this would be deferred and we would pick up again in two (2) weeks. This is about honoring the work that Councilmember Hooser and I have done. He has said a couple of times that I did the heavy lifting and some of this that I did, but he is not giving himself enough credit. He was here when Ordinance No. 808 was debated in the past. This is just simple routine stuff, and if it was not an election year and there was not this pressure from the Mayor, we would not even be having this dialogue. Two (2) Councilmembers have done this work. We were not allowed to get all of the discussion we had hoped today, so we agreed to defer for two (2) weeks, and now it is being said that maybe we should have a different plan. Why? I do not understand.

Council Chair Furfaro: Okay, I am not going to go around the table again and that is my prerogative as Chair. The fact of the matter is what I am hearing is that this is simple and routine, so Mr. Chock, I will send a communication to your Finance Committee for a purchase order. So let us cancel the boxing gloves that are on the requisition because it is going to be simple and routine. Is that what I am hearing here? I want to call for a vote, but I want to repeat the motion.

Councilmember Bynum moved to defer Resolution No. 2014-45, seconded by Councilmember Hooser.

Council Chair Furfaro: There is no further discussion on a deferral. I would like a roll call vote, please.

The motion to defer Resolution No. 2014-45 was then put, and carried by the following vote:

FOR DEFERRAL:	Bynum, Chock, Hooser, Yukimura,	TOTAL – 4,
AGAINST DEFERRAL:	Rapozo, Furfaro	TOTAL – 2,
EXCUSED & NOT VOTING:	Kagawa	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Furfaro: The deferral passed. There is no further discussion. We are moving along here.

#### BILLS FOR SECOND READING:

Bill No. 2554, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Real Property Tax Relief for the 2014 Tax Year*): Councilmember Yukimura moved for adoption of Bill No. 2554, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Hooser.

Council Chair Furfaro: Steve, I see you in the audience. Do you want to add anything before we go any further here? No. Okay, Councilmember Yukimura, do you want the floor?

Councilmember Yukimura: Yes, I will say a few words. I want to thank the Administration, who proposed this Bill as an administratively feasible way of addressing some of the major dislocation, changes, and increases in property taxes for people where the cap was removed. I want to also acknowledge Councilmember

Hooser and Councilmember Bynum, who proposed to amend it, so that there is an even bigger relief. I think this is necessary as a transition to a new Real Property Tax system, i.e. a system without the permanent tax cap, and especially because there was a lack of awareness of the variety of relief programs that were available and this will allow people now to avail of those programs, so that they can find ways to substantially lower their taxes next year.

Council Chair Furfaro:

Mr. Bynum, you have the floor.

Councilmember Bynum: I will be vote on this proposal. I am very appreciative of Steve Hunt and the Administration for doing the structural framework and collaborating with us on any potential amendments. They have been really great. I had a Bill in 2012 that would have kept the cap in place and those folks who got these increases who have kept their taxes low, but it did not pass. After that, the Administration said, "Okay," and they brought us things to remove the cap. When we removed the cap, they did it revenue neutral, which meant that these people got tax relief, but these people were going to come up. I identified that as an issue ever since we removed the cap. Councilmember Hooser and I proposed this year to lower the rate, so the increases would have been about what they are going to be under this Bill, but we were not able to succeed. This is the right thing to do for the right reasons and it is a "stop-gap" measure and we will have to address the bigger issues next year, but it is a good one. Thank you.

Council Chair Furfaro: I need to ask Steve to come up. If you folks are okay with that, I would like to suspend the rules, Steve. Conceptually, I want to get a few things square on my head because I am not on the Committee that these bills came out of. There was talk about us being somewhere at a total of six million dollars (\$6,000,000) worth of credits now, and that would come from our reserve. As I look at the numbers, that would not only come from our reserves, but that would have to probably come out of some of our other accounts that... how do I want to say... have money in them that are not in the red? Can you give me a summary of this real quick? Are we still around the eight million dollar (\$8,000,000) mark?

There being no objections, the rules were suspended.

STEVEN A. HUNT, Director of Finance: Steve Hunt, Director of Finance for the record. We have roughly four million nine hundred thousand dollars (\$4,900,000) in the Unassigned Fund Balance to our avail, and then we also have about three million six hundred thousand dollars (\$3,600,000) in the Committed Reserve. That Committed Reserve, as you authored and put in the provisos, fifty percent (50%) could be used or transferred to operations, but really is our reserve for disaster relief, so we tend not to go to there. In our Discretionary Fund, we have about four million nine hundred thousand dollars (\$4,900,000) available. Discretionary again, is somewhat liberal because it is recommended to have about two (2) months of the Operating Budget reserve, which would be about eighteen million dollars (\$18,000,000) in liquidity between your two (2) reserve funds, so we are not there yet.

Council Chair Furfaro: So we sometimes refer to the four million nine hundred thousand dollars (\$4,900,000) as the Fund Balances?

Mr. Hunt:  
Balance, General Fund.

That would be the Unassigned Fund

Council Chair Furfaro:  
allocations to the roads?

In that Fund Balance, are there any

Mr. Hunt: No, not in the Unassigned Fund Balance for General Fund.

Council Chair Furfaro: So if we run into trouble with Puhi, that is the only money that we have?

Mr. Hunt: I do not have it offhand, but there is a Highway Fund, which has some Fund Balance, but it is not much.

Council Chair Furfaro: I think the Highway Fund is about seven hundred thousand dollars (\$700,000).

Mr. Hunt: Maybe less than that.

Council Chair Furfaro: Okay. Steve, how does the Administration feel about this Bill?

Mr. Hunt: Again, it is a bit more aggressive in terms of the relief than was proposed, but I think it also solves potentially some of the solutions that were dealt with some of the use changes and some of the retroactivity bills that were being considered. I think this would be a broad relief that would cover many of those measures. Certainly, that would be a onetime fix. There still would be issues. It does not resolve things going forward. It would still need to be fixed. There are some *pukas* that I believe need to be addressed. Again, targeted income is the way that those *pukas* are fixed.

Council Chair Furfaro: So you referred to them as “targeted *pukas*” and I referred to them as the “mummy that needs fixing.” Basically, there is some reach in here financially, but we can make it work.

Mr. Hunt: There is Fund Balance to make this package work. I believe it is about one million nine hundred thousand dollars (\$1,900,000) that is being proposed to draw from that fund. Numbers might come down slightly when we actually run the programming to find out who has done new construction and who sold a hold since the date of value, so there will be some that will fall out from that group.

Council Chair Furfaro: I just love all the other window dressing you put on my question. There is some reach here, but we can do it.

Mr. Hunt: We can do it.

Council Chair Furfaro: Thank you.

Mr. Hunt: Thank you.

Council Chair Furfaro: Does anybody in the audience want to testify on this Bill?

Mr. Girald: Good afternoon, Members of the Council. My name is Robert Girald. I am a resident of Puhi. I remember at the Tax Workshop that I did recognize the duties that you have when you formulate the budget is a very tough one. I can understand all of the stress and anxiety you went through; however, when I look at what has happened now with this current move to, I guess, cap it at two hundred fifty dollars (\$250). It is, in a sense, a way to address the



negatives that came out of the removal of the cap. I am looking at this from one point of view that if someone had a ten thousand dollar (\$10,000) tax bill and now we are saying, "All you are going to be charged for is two hundred fifty dollars (\$250)." This individual is paying two point five percent (2.5%) of his actual tax liability. Someone who had one thousand dollars (\$1,000) would be paying twenty-five percent (25%) based on the two hundred fifty dollars (\$250) and someone who had a five hundred dollar (\$500) tax bill would be paying fifty percent (50%). Just using myself, I am having a ninety-seven percent (97%) increase because of the removal of the cap and how it was removed. The end result of that is that I did not exceed the two hundred fifty dollars (\$250). All I am saying is that when I sit here and I keep hearing tax equity or tax fairness, I become amused when I see stuff like this happen. Why I am saying this, and I am not trying to be critical of any individual, but I think what I am trying to say is that when the cap was removed—I have heard some Councilmembers say many times it is brought to our attention that these inequities were going to come out, yet it was still removed. I think that going forward, as the Chair said, that we need to look at this as just a temporary measure and to get into a real comprehensive overall of the tax structure. I think it is very important. All I am saying is that in quoting Mr. Kagawa, "I do not want to be rushed. We have got to really look at this and take the time to make sure that whatever you come up with, you are going to be addressing practically every possible inequity in the tax system." I felt that had the cap been reduced over a period of time, that might have been much easier for a lot of people.

Mr. Sato:

Three (3) minutes.

Mr. Girald: But the way it was done caused a lot of inequities. Even though you pick the fact that you have six thousand (6,000) somewhat people who did not have an increase, versus the five thousand (5,000) somewhat who had an increase; yes, that is fine, but the point remains that you had to go back and fish in the well now to get money from a budget that is already scary... not a budget, but a balance that is already scary. Again, what are you going to do next year? You have the pension issue that is still unfunded and that alone is a humongous amount. I do not envy you, but all I am saying is make sure you really do the homework before you make a decision. Some people look at this year as a political issue, so "We have to go out and bail out these numbers or come up with this to bail out people who are stuck with high taxes." I do not look at it that way. I think that was an honest effort on your part to try to address the issues, but it is construed by some people that, "Oh, it is to save their face to take this kind of action." I think that in order for you to prevent having that kind of reaction, you really need to make sure that you properly study every angle of the implication that can come out. I am not saying that it is "fool proof," but I think you should do a better job. Thank you.

Council Chair Furfaro: Thank you, Robert. Questions? No. Thank you. I will call the meeting back to order. Discussion on this item? Mr. Rapozo?

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Rapozo: I did not have any questions for Mr. Girald, but I did want to agree with him that it is sometimes amusing, and I mean this as a compliment to Councilmember Yukimura. In general, politicians have a way of picking the right words for the situation or circumstances that benefit your position. We all do that. I am just saying Councilmember Yukimura does it a lot better than most. She is a great politician and I mean that as a compliment. You saw that

today. "My cap was inequitable. It was not fair. There were too many inequities and this is not a cap." But it is a cap. You bring up a perfect example, Mr. Girald, of the inequity of this measure where the ten thousand dollar (\$10,000) a year tax bill payer gets a nine thousand seven hundred fifty dollars (\$9,750) break and the six hundred dollar (\$600) a year taxpayer gets a one hundred dollar (\$100) break. That is definitely not equitable. You could spin it that way, but to make the argument that this is a good Bill, and I will support this because if not, people will lose their homes—there is no doubt about it. But I just want to "call a spade a spade." This is a cap and it is inequitable, but it is necessary to save people's homes. I guess what I am trying to say is do not criticize me for supporting a cap that is inequitable by replacing it with a cap that is inequitable. This is just something that we need to do or people will lose their homes. I just wanted to make that point. Thank you.

Council Chair Furfaro:

Mr. Bynum.

Councilmember Bynum: In the spirit of "calling a spade a spade," yes, this is a cap. It caps any increase at two hundred fifty dollars (\$250) for one (1) year. It is temporary. It does not create any inequities. There is not a flipside that the people who did not get capped are going to see their taxes go up for eight (8) or ten (10) years, which is what happened before. I believe Councilmember Rapozo is correct that this is a cap. He is correct that people who had bigger incomes are going to benefit more from it than people who had smaller increases, but it is for one (1) year, it is temporary, and it does not create any inequities.

Council Chair Furfaro:

Mr. Hooser.

Councilmember Hooser: Thank you, Mr. Girald, for your testimony. You are quite eloquent in covering some of the challenges that we have to face here when we do our budget. We all have different perspectives on this and some of us felt that it was all predictable and we got what we thought we were going to get and others, including myself, think that there were some unintended consequences that occurred after the actions we took. There was some pressure because of the budget to take those actions, but I think at the end of the day, those actions were taken. We see the impacts and we adjust. That is our job. In an election year, everything that we do and every word that we utter is seen as politically motivated, whether you are fighting for kids for their school lunch or whether it is taxes or anything else. I hope people realize that regardless of elections, our job goes on, our responsibilities go on, and we have to deal with these issues. My personal experience with the repercussions of the actions and motivation for supporting this Bill is not so much with the cap, but with the change of use. That is the people that I am really responding to; the people who came here and through poor communications, if nothing else, from the County, they were not aware that renting out the room in their house, renting out an 'Ohana Unit, or doing this or that was going to have such huge impacts. I think it was a combination of the cap, changes in use, and the other changes that we made. It is our job and even when it is not an election year, when the people speak, this Council usually listens, whether it is barking dogs or cats or any number of issues. When it rises to a level and the community takes the time to show up, send us E-mails, and calls that it is having a direct impact on their lives, we all pay attention more. It is not a perfect measure, but I think it is something that is necessary. Because of the urgency of the tax bills, people have to pay their bills. There is a certain level of urgency of timing to do it right away. We need this immediate relief while we look at the long-term picture. I agree that we need to take a really long look at our tax structure. This measure will ensure that those huge, unintended swings are mitigated and reasonably. There was something else I was going to say—I want to thank the Finance Director, Steve

Hunt, for his professionalism and for his framing the initial bill, to give us a framework from which we could operate. Of course, thank you also to the co-introducer of the amendment, Councilmember Bynum, and all the Councilmembers. We get dinged, and I have said this before, of arguing a lot and we have a robust discussion. There is no question about it. There is a wide diversity of opinions at this table. We all came together on this in Committee and voted unanimously in support of it, so I am hoping the full Council will do that same in a few minutes. Thank you, Chair.

Council Chair Furfaro:

Anyone else? JoAnn?

Councilmember Yukimura: Thank you for your testimony, Mr. Girald. The reason why I was going to propose the thirty percent (30%) of the balance, which was in the original bill proposed by the Administration, is because of that inequity that you mentioned. In looking at how that would fall on people, I began to see that that had its inequities. It is really hard to find the perfect solution. I want to acknowledge that this is a cap, but it is so significantly different from a cap that is part of the ongoing system of Real Property Taxes. It was proposed by our Chair many years ago, also as an interim, and even Councilmember Rapozo had an amendment to propose to make it a one (1) year thing. My experience with these caps is that there is an inherent inertia to keep it. All of the flack that we experienced from removing it tells us how difficult it is to remove it, whether it is one (1) year, two (2) years, or ten (10) years. It is like the Additional Dwelling Unit (ADU) amendment, which for years there was a sunset date and it kept getting extended forever. That is the nature of these things. It is not the right structure, I believe, a cap. We have to find another way. I think we are moving in the right direction, but like those mixed uses, we have to further seek solutions to those. This interim cap, which is only for this year, is the way that we buy the time to make those additional changes that we will move us towards a good Real Property Tax system.

Council Chair Furfaro:

Mr. Chock.

Councilmember Chock: As I kind of reflect on the options here that have been spoken about, the only real difference for me between the one that Councilmember Rapozo suggested, along with his amendment and the one that is before us now, is that from our Tax Department perspective, it is going to be an easier fix for them to operate under. That is the only other thing I think that has not been said in terms of my perspective. Thank you.

Council Chair Furfaro: Anyone else before I speak? I think JoAnn commented on the ADU piece. The way we are getting out of the ADU is we made everybody, this last time around, declare that they had an intent to build housing on their property and get a voucher, so we got a count and we know where it is going. Steve, on this Bill, I appreciate the framework that the Administration has done. It is well appreciated. I do want to tell you that you came to the table thinking that you were going to mark it seven hundred fifty thousand dollars (\$750,000), and because we have a table of marketers here, we actually got you to spend an additional one million one hundred thousand dollars (\$1,100,000). As for the sales and marketing team for the next year, it is a great job, but it is for one (1) year. The fact of the matter is that we have to make sure that message is out there because as Mr. Girald said, we really need to get to a piece to fix this mummy and have some real serious dialogue over here. If not, it is a game of moving shells. I want to thank you Mr. Girald for that commentary. Thank you for the framework. On that note, I will call for the vote.

The motion for adoption of Bill No. 2554, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chock, Hooser, Rapozo, Yukimura, Furfaro	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Kagawa	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Furfaro: Thank you very much. We have two (2) more bills for today.

Bill No. 2555 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2014-781, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2014 THROUGH JUNE 30, 2015, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Real Property Tax Relief Funding – \$750,000*): Councilmember Hooser moved for adoption of Bill No. 2555 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Yukimura.

Councilmember Hooser moved amend Bill No. 2555 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 1, seconded by Councilmember Yukimura.

Council Chair Furfaro: Just before I give you the floor, Mr. Hooser, procedurally, if we have an amendment here on second reading, this is going to go back?

Mr. Sato: After the amendment is approved, it would be a Council recommendation to schedule another public hearing because of the amount increasing.

Council Chair Furfaro: Okay. Since this is your piece, I will give you the floor, Councilmember Hooser.

Councilmember Hooser: Thank you. This amendment increases the sum to one million nine hundred twenty-seven thousand dollars (\$1,927,000) that is necessary to provide the tax relief measure that we just passed. This is one million nine hundred twenty-seven thousand dollars (\$1,927,000) that goes back to the taxpayers.

Council Chair Furfaro: Okay. Just so that we are all clear, earlier that number was the seven hundred fifty thousand dollars (\$750,000) and this is that piece. JoAnn.

Councilmember Yukimura: I just want to say that if this were a permanent cap, the one million nine hundred twenty-seven thousand dollars (\$1,927,000) would grow over the years and that is one of the issues of the permanent cap, but for now and for the circumstances, this is a good amendment; a required amendment actually, based on what we just did.

Council Chair Furfaro: Yes. Considering that we just went out in the rain, I suggest you put a raincoat on. That is what this is about. Mr. Bynum.

Councilmember Bynum: Of course I am going to be supporting this, but it is so consistent with what I have been trying to do around here for years, which is give tax relief to local people. This is going to be an additional one million nine hundred thousand dollars (\$1,900,000) in tax relief to local people. Had we done this during budget, we would not have had to do it now, as was proposed.

Council Chair Furfaro: Well, we did not know until the budget what the fallout was going to be with the removal of the tax. This is an additional one million one hundred thousand dollars (\$1,100,000); the difference between the seven hundred fifty thousand dollars (\$750,000) and the one million nine hundred thousand dollars (\$1,900,000). Any further discussion? If not, we would like to move ahead with a vote.

Mr. Sato: This is a roll call vote on the amendment.

The motion to amend Bill No. 2555 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 1, was then put, and carried by the following vote:

FOR AMENDMENT:	Bynum, Chock, Hooser, Rapozo, Yukimura, Furfaro	TOTAL – 6,
AGAINST AMENDMENT:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Kagawa	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Councilmember Yukimura moved that Bill No. 2555, Draft 1 be ordered to print, that a public hearing thereon be scheduled for October 22, 2014 at 8:30 a.m., and that it thereafter be referred to the October 22, 2014 Council Meeting, seconded by Councilmember Chock.

Council Chair Furfaro: Thank you. Further discussion? If not, can I have a roll call, please?

The motion that Bill No. 2555, Draft 1 be ordered to print, that a public hearing thereon be scheduled for October 22, 2014 at 8:30 a.m., and that it thereafter be referred to the October 22, 2014 Council meeting was then put and carried by the following vote:

FOR:	Bynum, Chock, Hooser, Rapozo, Yukimura, Furfaro	TOTAL – 6,
AGAINST:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Kagawa	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Furfaro: Thank you. I think we are now on our last item.

Bill No. 2552 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2014-781, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2014 THROUGH JUNE 30, 2015 BY REVISING THE AMOUNTS ESTIMATED IN THE CRIMINAL ASSETS FORFEITURE FUND (*Kaua'i Police Department, Exercise Equipment – \$70,000*): Councilmember Bynum moved for adoption of Bill No. 2552 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Yukimura.

Council Chair Furfaro: Any discussion? Public testimony? Steve, do you have any commentary from the Administration? If not, I will just call for the vote.

The motion for adoption of Bill No. 2552 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chock, Hooser, Rapozo, Yukimura, Furfaro	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Kagawa	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Furfaro: Thank you. I believe that concludes our business for today. Is there anyone who has a personal privilege for anything?

Councilmember Hooser: Yes. Tomorrow from 1:00 p.m. to 4:00 p.m., we are having a special workshop here at the Council Chambers. The Economic Development (Sustainability / Agriculture / Food / Energy) & Intergovernmental Relations Committee in conjunction with Councilmember Bynum are cosponsoring the workshop. Councilmember Chock and others have expressed interest as well. It is an important that we are going to have concerning water. We are going to have Professor and Attorney Kapua Sproat and students from the Environmental Law program talking about water issues. We will also have Adam Asquith and he is with the...

Councilmember Bynum: University of Hawai'i at Mānoa Sea Grant program.

Councilmember Hooser: Yes. We are talking about drinking water specific to the *ahupua'a* that we are in right now and the impacts on growth and the natural environment conservation and that kind of thing. Councilmember Bynum, do you want to add anything?

Councilmember Bynum: I just wanted to add that this is an important workshop and I am hopeful that if our technical difficulties are not fixed, we can arrange for Hō'ike to be here with alternative cameras to record this for the public.

Council Chair Furfaro: The question was raised that since they are having a workshop tomorrow— gentlemen, I do want you to let you know that I will come in and out tomorrow, but I have some needs with my wife tomorrow in the afternoon. Do we have an opportunity to have this filmed tomorrow and have some redundancy? Both people are acknowledging “yay.” Am I correct? Okay.

Councilmember Bynum: Great.

Council Chair Furfaro: Go ahead, Mr. Hooser.

Councilmember Hooser: I would like to have a second point of personal privilege.

Council Chair Furfaro: Yes, go ahead.

Councilmember Hooser: I would like to compliment Councilmember Chock. Today, we had kind of a robust or stimulating discussion and there were times when strong personalities were apparent, and Councilmember Chock, who was serving in your capacity as Vice Chair, did an excellent job of managing the meeting and moving us forward. I just wanted to put that on the record. Thank you.

Council Chair Furfaro: Thank you very much for that moment to acknowledge, what I am hearing now, might have been a little bit of a challenging session, but I also know that Councilmember Chock, as Vice Chair, is up for the challenge.

Councilmember Chock: I acknowledge and thank you.

Council Chair Furfaro: On that note, Mr. Bynum and Mr. Hooser, I will be coming in and out tomorrow. Please understand.

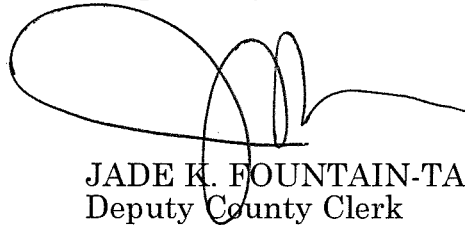
Councilmember Rapozo moved to adjourn the October 8, 2014 Council Meeting, seconded by Councilmember Yukimura, and carried by a vote of 6:0:1 (*Councilmember Kagawa was excused*).

Chair Furfaro: We are now adjourned. Thank you.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 5:48 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA  
Deputy County Clerk

:cy





(October 8, 2014)

FLOOR AMENDMENT

Bill No. 2555, Relating To Real Property Taxes (*Real Property Tax Relief Funding*)

Introduced by: GARY L. HOOSER

1. Amend Bill No. 2555, SECTION 1 in its entirety to read as follows:

“SECTION 1. That pursuant to Sec. 19.07B and 19.10A of the Charter of the County of Kaua‘i, as amended, Ordinance No. B-2014-781, as amended, relating to the Operating Budget of the County of Kaua‘i, State of Hawai‘i, for the Fiscal Year July 1, 2014 through June 30, 2015, be hereby amended as follows:

The sum of \$1,927,000.00 by revising the amounts estimated in the General Fund from the following account:

001-0000-271.00-00 Equity / Fund Balance – Unassigned [\$1,927,000.00]

Be and is hereby appropriated as follows:

Contribution from Reserve Fund	\$1,927,000.00
(Unassigned Fund Balance)	

The sum of \$1,927,000.00 by revising the amounts estimated in the General Fund from the following account:

001-0000-401.10-00 Taxes / Real Property – Current [\$1,927,000.00]”

